

Colborn, Paul P

From: Colborn, Paul P
Sent: Thursday, May 11, 2006 12:37 PM
To: Bradbury, Steve
Subject: FW: book

Steve, attached is what I've learned about the review process for the John Yoo manuscript. In a nutshell, OLC should do a client confidences review and OIPR should do a classified information review, and the order in which those reviews are done probably doesn't make a difference (although Stu Frisch suggest we ask OIPR if they have a preference).

-----Original Message-----

From: Frisch, Stuart
Sent: Thursday, May 11, 2006 12:34 PM
To: Colborn, Paul P
Cc: Margolis, David
Subject: RE: book

Paul,

I don't think the sequence makes a difference. Why don't you ask Jim Baker or Sheryl Walter for their preference?

Stu

-----Original Message-----

From: Colborn, Paul P
Sent: Thursday, May 11, 2006 12:30 PM
To: Margolis, David; Frisch, Stuart
Subject: RE: book

I do, although you may just be being funny.

Stu, would it be appropriate for OLC to review it first for client confidences and then after that review send it on to OIPR for the classified information review?

-----Original Message-----

From: Margolis, David
Sent: Thursday, May 11, 2006 12:27 PM
To: Frisch, Stuart; Colborn, Paul P
Subject: RE: book

I concur. Paul:you too:

-----Original Message-----

From: Frisch, Stuart
Sent: Thursday, May 11, 2006 9:38 AM
To: Colborn, Paul P
Cc: Margolis, David
Subject: RE: book

Paul,

You shouldn't refer Mr. Yoo. Rather, you should forward the book to the Counsel for OIPR for processing under 28 CFR 17.18. OLC should review the book with respect to client confidences. (Dave, do you agree?) Stu

-----Original Message-----

From: Colborn, Paul P
Sent: Wednesday, May 10, 2006 6:42 PM
To: Frisch, Stuart
Subject: Re: book

What's the process? Who should I send John Yoo to?

-----Original Message-----

From: Frisch, Stuart
To: Colborn, Paul P
Sent: Wed May 10 18:01:14 2006
Subject: RE: book

Paul,

1. Individuals who have had access to classified information sign an agreement to pre-clear. If they fail to do so, the government can, among other things, go after any money made on the book.
2. Lawyers have to avoid disclosing client confidences or face a possible referral to the Bar. In an abundance of caution, some choose to pre-clear.

Stu

-----Original Message-----

From: Colborn, Paul P
Sent: Wednesday, May 10, 2006 4:58 PM
To: Frisch, Stuart
Subject: FW: book

Stu, is there actually a requirement that former DOJ employees must clear book publication with DOJ?

-----Original Message-----

From: Bradbury, Steve
Sent: Wednesday, May 10, 2006 9:27 AM
To: 'yoo@law.berkeley.edu'
Cc: Robinson, Lawan; Colborn, Paul P
Subject: FW: book

John: You can certainly send the manuscript directly to me, and we will see that it gets the necessary review as promptly as possible. I look forward to seeing it! Hope all is well with you. Things are definitely humming along here. All the best. Steve

-----Original Message-----

From: Robinson, Lawan
Sent: Wednesday, May 10, 2006 9:16 AM
To: Bradbury, Steve
Subject: FW: book

FYI

-----Original Message-----

From: yoo@law.berkeley.edu [mailto:yoo@law.berkeley.edu]
Sent: Wednesday, May 10, 2006 4:49 AM
To: Robinson, Lawan
Subject: book

Lawan: Would you mind forwarding this message to Steve Bradbury? I don't have his email address. I hope you are doing well. John

Steve:

I am writing a book that goes through the legal policy issues in the war on terrorism. It contains no classified information, but uses only publicly available documents in talking about OLC's positions. It tells a few stories. I remember when I started in 2001 that I signed something requiring me to clear the book with DOJ, and I can now send a manuscript.

I think the review should be quick, and obviously I would not want to do anything that would involve sensitive information.

Can you tell me whether I should send the manuscript to you, Colborn, or whomever, and what the process should be?

I hope you are well.

Thanks.

John Yoo

Professor of Law

Boalt Hall School of Law

University of California at Berkeley

Berkeley, CA 94720

510.643.5089

510.642.3728 (fax)

Margolis, David

From: Margolis, David
Sent: Thursday, May 11, 2006 1:41 PM
To: Colborn, Paul P; Frisch, Stuart
Subject: RE: book

I was

-----Original Message-----

From: Colborn, Paul P
Sent: Thursday, May 11, 2006 12:30 PM
To: Margolis, David; Frisch, Stuart

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duplicate

Bradbury, Steve

From: Bradbury, Steve
Sent: Friday, June 9, 2006 5:40 PM
To: (b)(6) Steve Bradbury (personal)
Subject: FW: Follow up on book review
Attachments: tmp.htm; chap 8 final.DOC; chap 1 final.doc; chap 2 final.doc; chap 3 final.doc; chap 4 final.doc; chap 5 final.doc; chap 6 final.doc; chap 7 final.doc

-----Original Message-----

From: yoo@law.berkeley.edu [mailto:yoo@law.berkeley.edu]
Sent: Friday, June 09, 2006 4:48 PM
To: Bradbury, Steve
Subject: Follow up on book review

Steve:

I am sorry to bother you with this, as I know you have many, many more important things on your plate.

I wanted to follow up on the progress of the classification review for the book manuscript I sent in. Could you give me some sense of where it is, and what the timing for an answer might be? My publishers are obviously anxious to know, as am I. They are hoping to have the book out by September, which means they wish to send it to the printer at the end of July.

I am attaching the manuscript, which I have edited again and made even shorter.

I hope all else is well.

John

John Yoo

Professor of Law

Boalt Hall School of Law

University of California at Berkeley

Berkeley, CA 94720

510-643-5089 (voice)

510-642-3728 (fax)

yoo@law.berkeley.edu

From: yoo@law.berkeley.edu
Sent: Friday, June 9, 2006 5:54 PM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Steve: Many thanks, and I am grateful for your quick response. Sorry to bother you with it, and of course I am open to making any changes necessary.

Thanks, and see you in September at the CT reunion, if not before.

John Yoo
Professor of Law
Boalt Hall School of Law
University of California at Berkeley
Berkeley, CA 94720
510-643-5089 (voice)
510-642-3728 (fax)

-----Original Message-----

From: Steve.Bradbury@usdoj.gov [mailto:Steve.Bradbury@usdoj.gov]
Sent: Friday, June 09, 2006 2:39 PM
To: yoo@law.berkeley.edu (Receipt Notification Requested) (IPM Return Requested)
Subject: RE: Follow up on book review

Hey, John -- Sorry I didn't respond earlier. Thanks for sending along the new version. As I understand it, the drill in DOJ is that I review it first for privileged material and then Jim Baker in OIPR reviews it for classified info. I will try to finish up my review ASAP -- I hope over the weekend -- and then I will push Jim to complete his review. Jim has been out this week and I know he hasn't started to review it yet. I'll let you know early next week how it's coming. Hope that works for you.
Thanks, Steve

-----Original Message-----

From: yoo@law.berkeley.edu [mailto:yoo@law.berkeley.edu]
Sent: Friday, June 09, 2006 4:48 PM
To: Bradbury, Steve
Subject: Follow up on book review

Steve:

I am sorry to bother you with this, as I know you have many, many more important things on your plate.

I wanted to follow up on the progress of the classification review for the book manuscript I sent in. Could you give me some sense of where it is, and what the timing for an answer might be? My publishers are obviously anxious to know, as am I. They are hoping to have the book out by September, which means they wish to send it to the printer at the end of July.

I am attaching the manuscript, which I have edited again and made even shorter.

I hope all else is well.

John

John Yoo

Professor of Law

Boalt Hall School of Law

University of California at Berkeley

Berkeley, CA 94720

510-643-5089 (voice)

510-642-3728 (fax)

Colborn, Paul P

From: Colborn, Paul P
Sent: Monday, June 12, 2006 10:44 AM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Will do

-----Original Message-----

From: Bradbury, Steve
Sent: Monday, June 12, 2006 10:40 AM
To: Colborn, Paul P
Subject: FW: Follow up on book review

Paul: Here's the book manuscript. I would very much welcome your quick perusal and reaction.
Many thx!

-----Original Message-----

From: yoo@law.berkeley.edu [mailto:yoo@law.berkeley.edu]
Sent: Friday, June 09, 2006 4:48 PM

duplicate

duplicate

Baker, James

From: Baker, James
Sent: Monday, June 12, 2006 3:09 PM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Got it. Thanks.

-----Original Message-----

From: Bradbury, Steve
Sent: Monday, June 12, 2006 10:48 AM
To: Baker, James
Subject: FW: Follow up on book review

Jim: As discussed: Here is John Yoo's manuscript. Let's discuss as soon as you've had a chance to review it. Thx! Steve

-----Original Message-----

From: yoo@law.berkeley.edu [mailto:yoo@law.berkeley.edu]
Sent: Friday, June 09, 2006 4:48 PM
To: Bradbury, Steve
Subject: Follow up on book review

Steve:

I am sorry to bother you with this, as I know you have many, many more important things on your plate.

I wanted to follow up on the progress of the classification review for the book manuscript I sent in. Could you give me some sense of where it is, and what the timing for an answer might be? My publishers are obviously anxious to know, as am I. They are hoping to have the book out by September, which means they wish to send it to the printer at the end of July.

I am attaching the manuscript, which I have edited again and made even shorter.

I hope all else is well.

John

John Yoo

Professor of Law

Boalt Hall School of Law

University of California at Berkeley

Berkeley, CA 94720

510-643-5089 (voice)

510-642-3728 (fax)

Colborn, Paul P

From: Colborn, Paul P
Sent: Wednesday, June 14, 2006 10:37 AM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Are you free now?

-----Original Message-----

From: Bradbury, Steve
Sent: Wednesday, June 14, 2006 9:46 AM
To: Colborn, Paul P
Subject: RE: Follow up on book review

Pls let me know when you're in and let's discuss. Thx

-----Original Message-----

From: Colborn, Paul P
Sent: Tuesday, June 13, 2006 6:53 PM
To: Bradbury, Steve
Subject: Re: Follow up on book review

Yes, that's what I'm thinking.

-----Original Message-----

From: Bradbury, Steve
To: Colborn, Paul P
Sent: Tue Jun 13 18:47:05 2006
Subject: RE: Follow up on book review

Okay. Let's speak tomorrow. Perhaps I could [REDACTED] (b) (5) and then follow that up with an email [REDACTED] (b) (5). Thx

-----Original Message-----

From: Colborn, Paul P
Sent: Tuesday, June 13, 2006 6:46 PM
To: Bradbury, Steve
Subject: Re: Follow up on book review

Sorry, I've left. I'll catch you tomorrow. [REDACTED] (b) (5)

[REDACTED]
(b) (5)

(b) (5)

-----Original Message-----

From: Bradbury, Steve
To: Colborn, Paul P
Sent: Tue Jun 13 18:41:22 2006
Subject: Re: Follow up on book review

Yes, I'm back in my office.

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve
Sent: Tue Jun 13 18:21:56 2006
Subject: RE: Follow up on book review

Do you have time to discuss now?

-----Original Message-----

From: Bradbury, Steve
Sent: Tuesday, June 13, 2006 6:21 PM
To: Colborn, Paul P
Subject: Re: Follow up on book review

Please advise as to what you think I should say to John. Thx

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve
Sent: Tue Jun 13 17:43:12 2006
Subject: RE: Follow up on book review

Steve, I've reviewed the manuscript and talked with Stu Frisch (and David Margolis), and am ready to discuss this with you whenever you are.

-----Original Message-----

From: Bradbury, Steve
Sent: Monday, June 12, 2006 10:40 AM
To: Colborn, Paul P

duplicate

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duplicate

Colborn, Paul P

From: Colborn, Paul P
Sent: Wednesday, June 14, 2006 2:30 PM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Do you have time this afternoon to talk about this and one other matter?

-----Original Message-----

From: Bradbury, Steve
Sent: Wednesday, June 14, 2006 9:46 AM
To: Colborn, Paul P
Subject: RE: Follow up on book review

Pls let me know when you're in and let's discuss. Thx

-----Original Message-----

From: Colborn, Paul P
Sent: Tuesday, June 13, 2006 6:53 PM

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Bradbury, Steve

From: Bradbury, Steve
Sent: Wednesday, June 14, 2006 5:33 PM
To: Colborn, Paul P
Subject: Re: Follow up on book review

Will do. Thx

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve
Sent: Wed Jun 14 17:23:52 2006
Subject: RE: Follow up on book review

Steve, if you were to send me your draft email, I could send it back in (b) (5) form.

-----Original Message-----

From: Bradbury, Steve
Sent: Wednesday, June 14, 2006 9:46 AM
To: Colborn, Paul P
Subject: RE: Follow up on book review

Pls let me know when you're in and let's discuss. Thx

-----Original Message-----

From: Colborn, Paul P
Sent: Tuesday, June 13, 2006 6:53 PM
To: Bradbury, Steve

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Colborn, Paul P

From: Colborn, Paul P
Sent: Wednesday, June 14, 2006 6:18 PM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Here's what I suggest you send:

(b) (5)

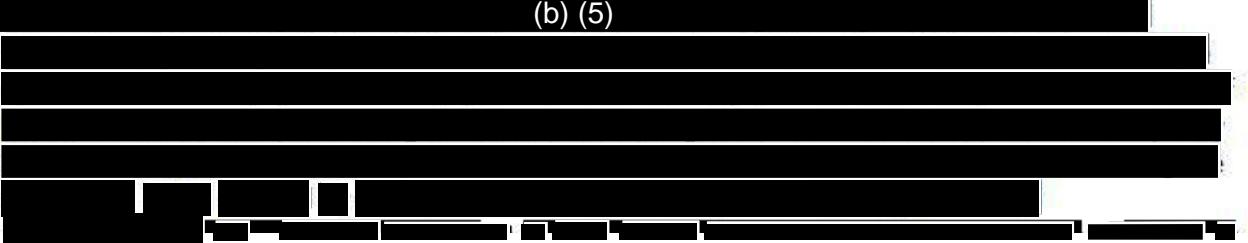


-----Original Message-----

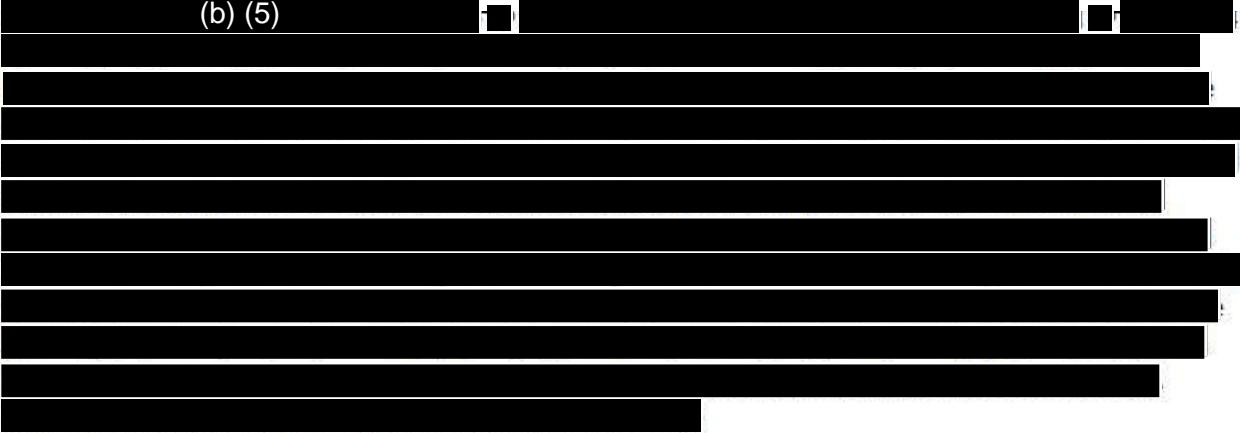
From: Bradbury, Steve
Sent: Wednesday, June 14, 2006 6:15 PM
To: Colborn, Paul P
Subject: RE: Follow up on book review

Paul: Per your email, below is the draft email to John re our review of his book manuscript. Thx!
Steve

(b) (5)



(b) (5)



-----Original Message-----

From: yoo@law.berkeley.edu [mailto:yoo@law.berkeley.edu]

Sent: Friday, June 09, 2006 4:48 PM

To: Bradbury, Steve

duplicate



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Colborn, Paul P

From: Colborn, Paul P
Sent: Wednesday, June 14, 2006 6:25 PM
To: Bradbury, Steve
Subject: RE: Follow up on book review

I thought the main issues were [REDACTED] (b) (5) [REDACTED]
[REDACTED], the [REDACTED] (b) (5)
[REDACTED], and the [REDACTED] (b) (5).

Also, [REDACTED] (b) (5)
[REDACTED].

-----Original Message-----

From: Bradbury, Steve
Sent: Wednesday, June 14, 2006 6:15 PM
To: Colborn, Paul P

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Colborn, Paul P

From: Colborn, Paul P
Sent: Thursday, June 15, 2006 2:24 PM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Do you have any time this afternoon to discuss this and one other matter?

-----Original Message-----

From: Bradbury, Steve
Sent: Wednesday, June 14, 2006 7:45 PM
To: Colborn, Paul P
Cc: Baker, James
Subject: FW: Follow up on book review

FYI

-----Original Message-----

From: yoo@law.berkeley.edu [mailto:yoo@law.berkeley.edu]
Sent: Wednesday, June 14, 2006 7:21 PM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Steve:

Thanks for the early heads up. I want to work with you and Jim to make sure there are no problems in the end.

I will also want to figure out how to handle the 1/9/02 memo. It was leaked and is all over the internet, but DOJ I suppose only released the Bybee final memo. I could work to replace all of the references to the 1/9 memo with the one Bybee signed in the end. But I wonder whether it makes sense to do it when the 1/9 memo is so easily available everywhere and has not been questioned by DOJ, and has been written up in the media, law journals, collections of the documents, etc. I feel it puts the administration in a bad spot because it won't respond to criticism, but shouldn't those on the outside be allowed to? I guess the same goes for the Taft criticism; it was leaked too, and is all over the place, and is much discussed in the media and scholarly literature.

I especially want to work with you and Jim to make sure no classified information is released. I've tried to work closely on the NSA and interrogation chapters along the lines of what has been said in public or in documents by the administration, but if there are things that don't have that foundation,

we should figure it out.

Thanks for taking the time to look through it, and I look forward to your more detailed discussion.

John

John Yoo
Professor of Law
Boalt Hall School of Law
University of California at Berkeley
Berkeley, CA 94720
510-643-5089 (voice)
510-642-3728 (fax)

-----Original Message-----

From: Steve.Bradbury@usdoj.gov [mailto:Steve.Bradbury@usdoj.gov]
Sent: Wednesday, June 14, 2006 3:47 PM
To: yoo@law.berkeley.edu (Receipt Notification Requested) (IPM Return
Requested)
Subject: RE: Follow up on book review

John: We're continuing our review and OIPR is also reviewing. We'll get you a more detailed reaction ASAP, but I did want to let you know that I see some areas of concern. There are some anecdotes in the manuscript that describe internal deliberations of the Executive Branch (concerning the formulation of legal advice for the President or senior policy makers in connection with policy decisions in the War on Terror), and at least one, concerning the meeting in EEOB chaired by the Counsel to the President, that involves presidential communications privilege (i.e., communications to or from senior White House advisers relating to a subject that may be presented to the President for decision). These are the sorts of confidential internal Executive Branch deliberations and communications that we would ordinarily not disclose publicly or to the Congress, even when they relate to a draft or final document that may have been publicly disclosed in some manner, whether through a leak or intentionally by the President or DOJ. We have held those lines on the subjects addressed in your manuscript in the face of numerous requests for information from Congress. In particular, I have concerns about discussing the draft 1/9/02 Delahunty/Yoo opinion (which has not been officially released), the draft Judge Gonzales memo, and the disagreements with Will Taft. In addition, I have concerns with respect to the NSA chapter, and possibly also the interrogation chapter, that certain passages in the manuscript may reveal nonpublic information about classified programs. Finally, one other minor thing to point out: At one point the manuscript identifies your DAAG position in OLC as a presidential appointment, and you'll want to correct that. Once again, I'm sorry for the delay in reviewing this. We'll get you more specifics just as soon as we can. Thx! Steve

-----Original Message-----

From: yoo@law.berkeley.edu [mailto:yoo@law.berkeley.edu]

Sent: Friday, June 09, 2006 4:48 PM
To: Bradbury, Steve

duplicate

duplicate

Colborn, Paul P

From: Colborn, Paul P
Sent: Friday, June 16, 2006 10:09 AM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Are you available this morning to discuss this and one other matter?

-----Original Message-----

From: Bradbury, Steve
Sent: Wednesday, June 14, 2006 7:45 PM
To: Colborn, Paul P
Cc: Baker, James

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Colborn, Paul P

From: Colborn, Paul P
Sent: Monday, June 19, 2006 9:21 AM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Steve, over the weekend I marked the internal discussions and other passages you and I should discuss. Let me know when you're available to do that.

-----Original Message-----

From: Bradbury, Steve
Sent: Wednesday, June 14, 2006 7:45 PM
To: Colborn, Paul P
Cc: Baker, James

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Bradbury, Steve

From: Bradbury, Steve
Sent: Monday, June 19, 2006 7:06 PM
To: (b)(6) Steve Bradbury (personal)
Subject: Yoo excerpts
Attachments: Yoo Manuscript Excerpts.doc

Colborn, Paul P

From: Colborn, Paul P
Sent: Tuesday, June 20, 2006 12:29 PM
To: Bradbury, Steve
Subject: Yoo manuscript

Rick has found the things you were particularly looking for. I can come discuss them with you whenever you're free.

Bradbury, Steve

From: Bradbury, Steve
Sent: Tuesday, June 20, 2006 8:43 PM
To: (b)(6) Steve Bradbury (personal)
Subject: Current Yoo excerpts
Attachments: Yoo Manuscript Excerpts2.doc

Colborn, Paul P

From: Colborn, Paul P
Sent: Wednesday, June 21, 2006 3:25 PM
To: Bradbury, Steve
Subject: Yoo manuscript

Steve, I'm fine with your comments except:

1. [REDACTED] (b) (5) [REDACTED]
[REDACTED]
2. [REDACTED] (b) (5) [REDACTED]
[REDACTED]
3. [REDACTED] (b) (5) [REDACTED]
[REDACTED].

Bradbury, Steve

From: Bradbury, Steve
Sent: Wednesday, June 21, 2006 7:49 PM
To: (b)(6) Steve Bradbury (personal)'
Subject: Yoo excerpts -- 6/21/06
Attachments: Yoo Manuscript Excerpts.doc; Yoo Manuscript Excerpts2.doc

Bradbury, Steve

From: Bradbury, Steve
Sent: Thursday, June 22, 2006 2:53 PM
To: Colborn, Paul P
Subject: Re: Yoo Manuscript

Thank you!

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve
Sent: Thu Jun 22 14:49:23 2006
Subject: Yoo Manuscript

Steve, your latest version of the comments looks great. Ready to go.

Bradbury, Steve

From: Bradbury, Steve
Sent: Thursday, June 22, 2006 5:07 PM
To: Colborn, Paul P; Elwood, John; Eisenberg, John; Baker, James
Subject: FW: Follow up on book review
Attachments: Yoo Manuscript Excerpts2.doc

FYI

-----Original Message-----

From: Bradbury, Steve
Sent: Thursday, June 22, 2006 5:06 PM
To: 'yoo@law.berkeley.edu'
Subject: RE: Follow up on book review

John: Attached is our more detailed set of comments on various excerpts from your manuscript. You'll see that we've quoted the relevant excerpts and then provided a comment on the issues raised and our suggestion for how to handle it. I hope this is helpful, and, again, I'm very sorry for the time it's taken us to get this back to you. Steve

-----Original Message-----

From: yoo@law.berkeley.edu [mailto:yoo@law.berkeley.edu]
Sent: Wednesday, June 14, 2006 7:21 PM
To: Bradbury, Steve

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duplicate

duplicate

COMMENTS ON EXCERPTS FROM YOO MANUSCRIPT RE WAR ON TERROR ISSUES
JUNE 22, 2006

Chapter I: War

(b) (4)

[Requests for advice are deliberative. Consider simply stating something like the following: (b) (5)."]

* * *

(b) (4)

[Suggest the discussion expressly refer to and focus on the published version of the (b) (5) and that it discuss the points made on the face of that memo.]

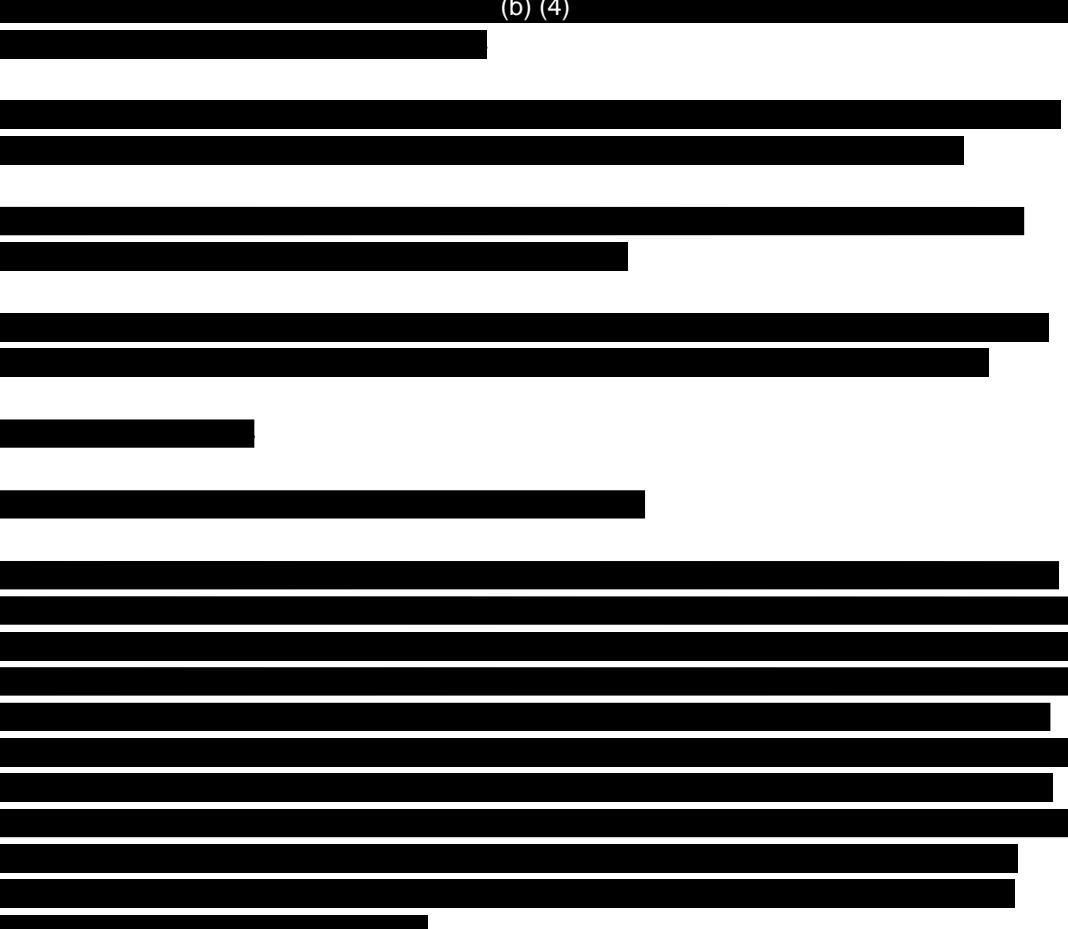
* * *

Chapter 2

The Geneva Conventions

(b) (4)

(b) (4)



[The above excerpts discuss a leaked draft memo and reveal internal deliberations. Suggest you substitute a discussion of the officially disclosed (b) (5) memo; also suggest that the discussion not reveal internal deliberations, but rather limit itself to discussing the points made on the face of the (b) (5) memo.]

* * *

(b) (4)

[View Details](#) | [Edit](#) | [Delete](#)

* * *

(b) (4)



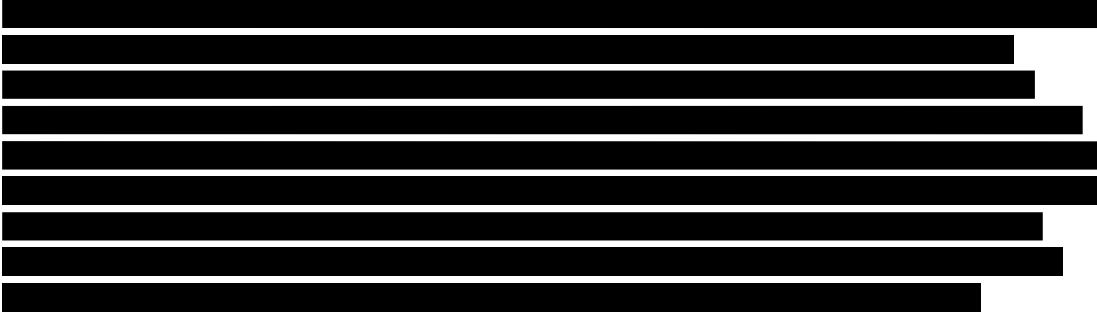
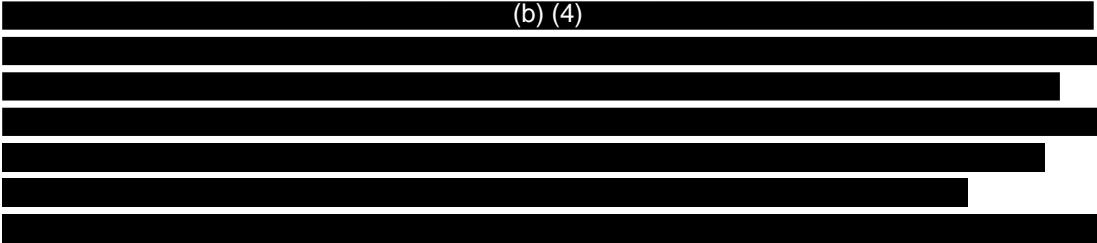
[The above excerpts relate to a leaked draft memo and reveal deliberations. Suggest you substitute discussion of points made in the officially release (b) (5) memo.]

* * *

(b) (4)



(b) (4)



[The above excerpts reveal internal deliberations. Suggest these be deleted or summarized in a more general way by reference to the points made in the (b) (5) memo. Suggest that you consider referring to offices, rather than individuals by name, for attendance at meetings. But note the (b) (5) could tend to reveal information about activities which, if they existed, would be classified and would not be publicly acknowledged by the Government.]

* * *

(b) (4)



(b) (4)



[The above excerpts reveal deliberative information. Suggest they be deleted or summarized in more general terms. Also suggest that you refer to offices rather than individuals in terms of attendance at meetings.]

* * *

(b) (4)



(b) (4)



[The above excerpts reveal internal deliberations. Suggest these be deleted or summarized in a more general way by reference to the points made in the (b) (5) memo.]

* * *

(b) (4)



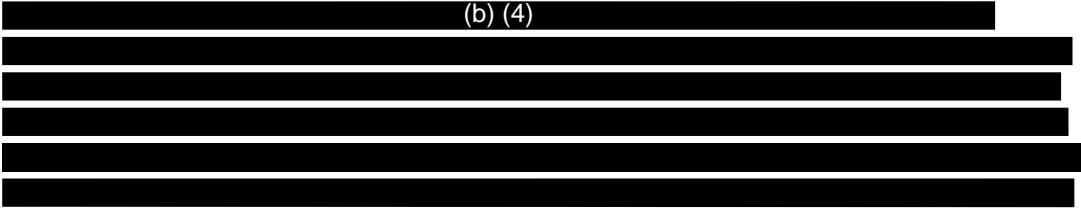
[The bracketed language in the above excerpt reveals deliberative information. Suggest it be deleted. Note also that the date given for the Bybee memo is incorrect; the correct date is 1/22/02.]

* * *

(b) (4)



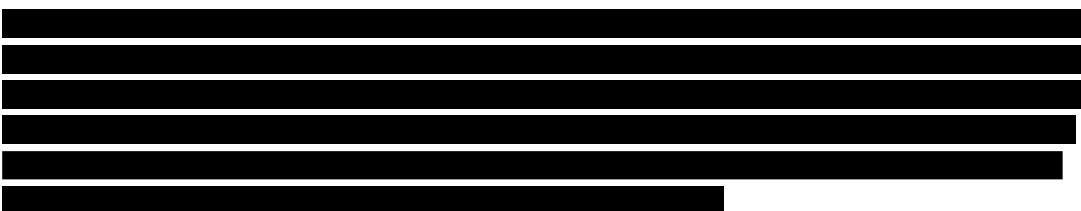
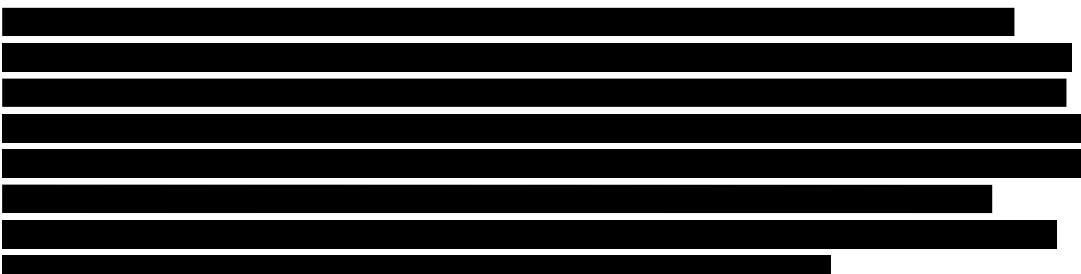
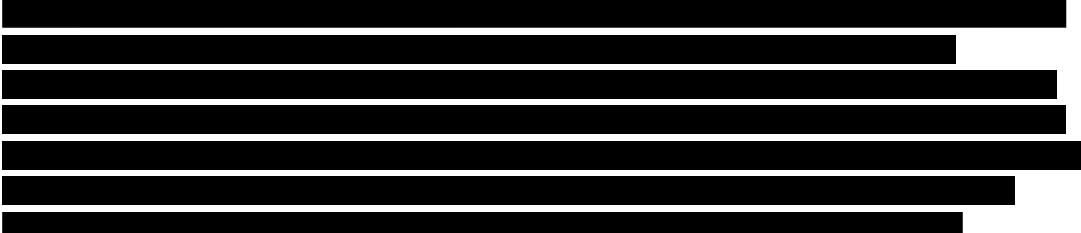
(b) (4)



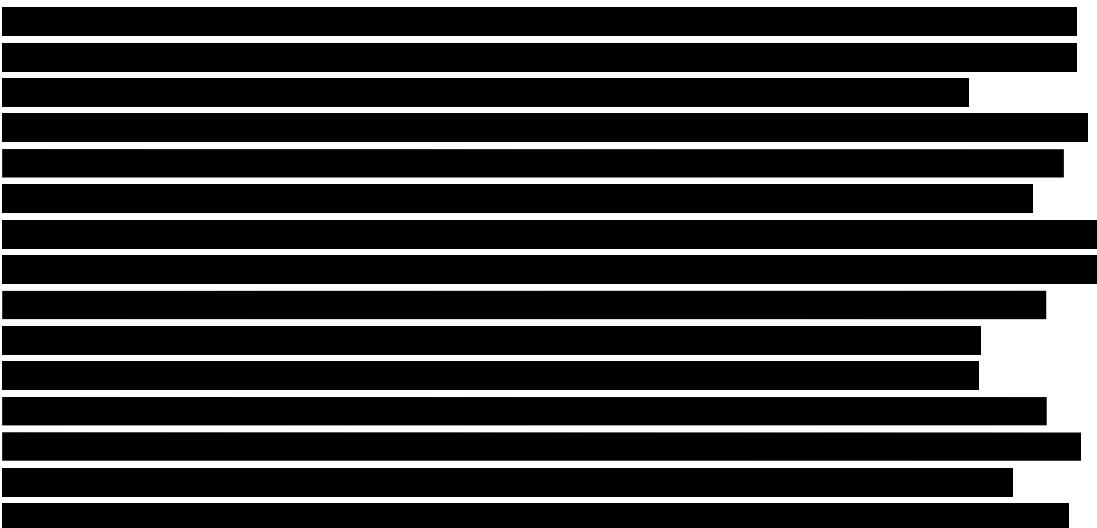
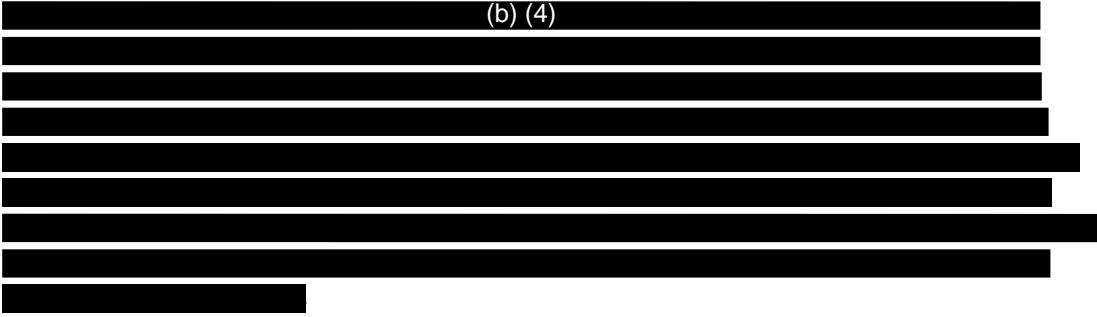
[The bracketed portions in the above excerpts reveal internal deliberations or sensitive nonpublic information. Suggest these be deleted or, if possible, summarized in a more general way that does not reveal deliberative information.]

* * *

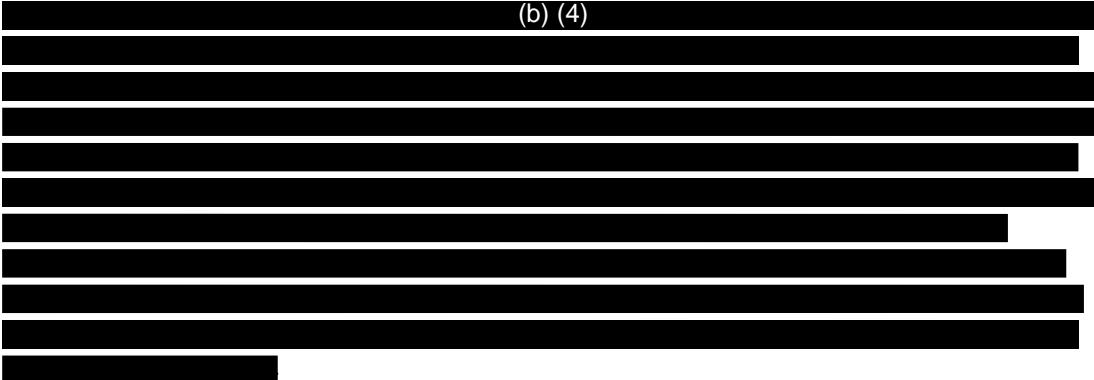
(b) (4)



(b) (4)



(b) (4)



[The above excerpts relate to two leaked memos, one a draft, that have not been officially released by the Administration. Suggest these excerpts be deleted or that these points be summarized in a more general way, perhaps by reference to other commentators who have discussed the leaked memos, but in a way that does not suggest official verification of the contents of the memos.]

* * *

Chapter 3

Assassination

(b) (4)



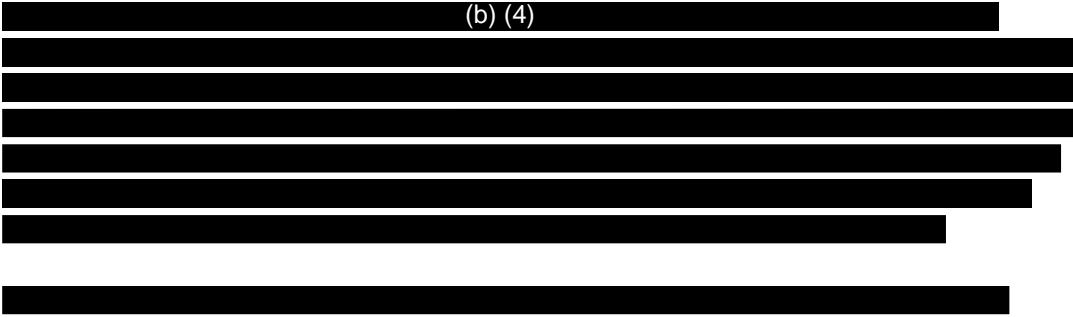
[The bracketed language above [] (b) (5) [] which, if it existed, would be classified and would not be officially confirmed. Suggest it be deleted or that each bracketed statement be qualified by a lead-in clause such as, "Bob Woodward has reported that . . ."]

* * *

Chapter 4

The Patriot Act

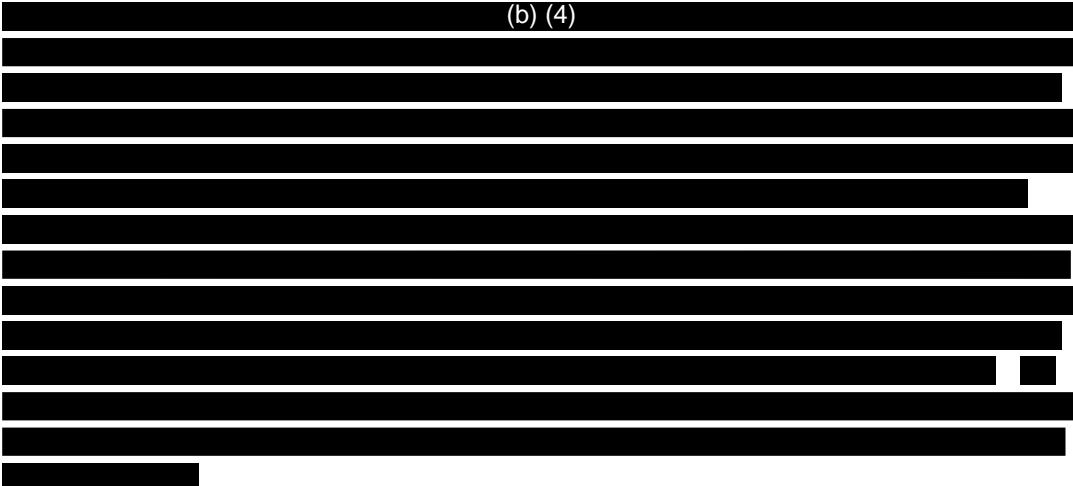
(b) (4)



[The above excerpts reveal internal deliberations. Suggest they be recast to be more general, such as: The DAG asked OLC to participate in the drafting of the brief, and the SG agreed to argue the case before the FISC.]

* * *

(b) (4)



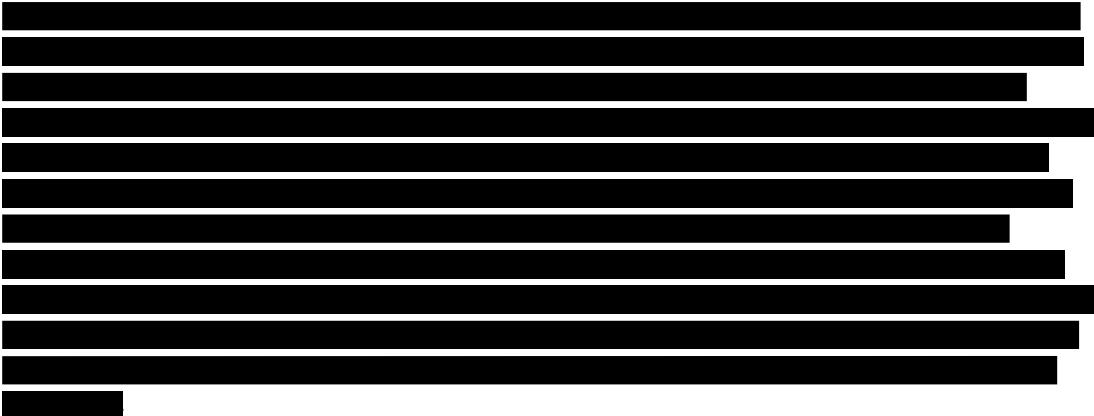
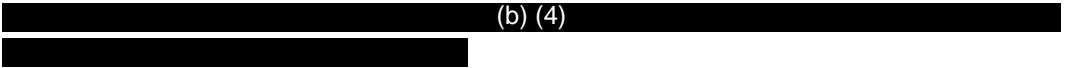
[The above excerpt reveals internal deliberations. Suggest you focus instead on what the Government's public brief argued.]

* * *

Chapter 5

The NSA and Wiretapping

(b) (4)



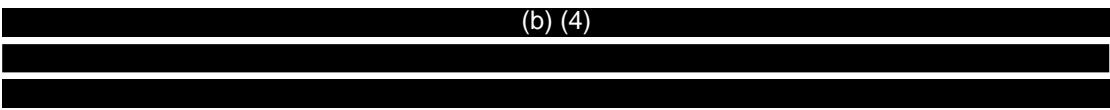
[The above excerpts reveal internal deliberations and relate to possible sensitive national security information that has not been publicly confirmed, including information about who may have been given access to sensitive information.
Suggest they be deleted.]

* * *

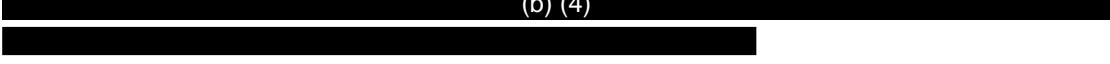
Chapter 7

Interrogation

(b) (4)



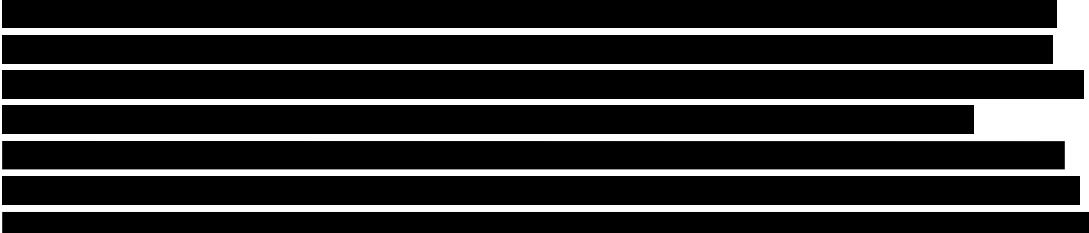
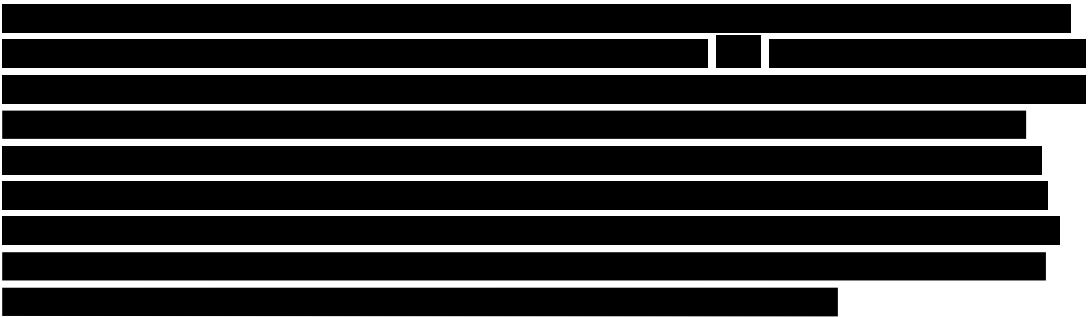
(b) (4)



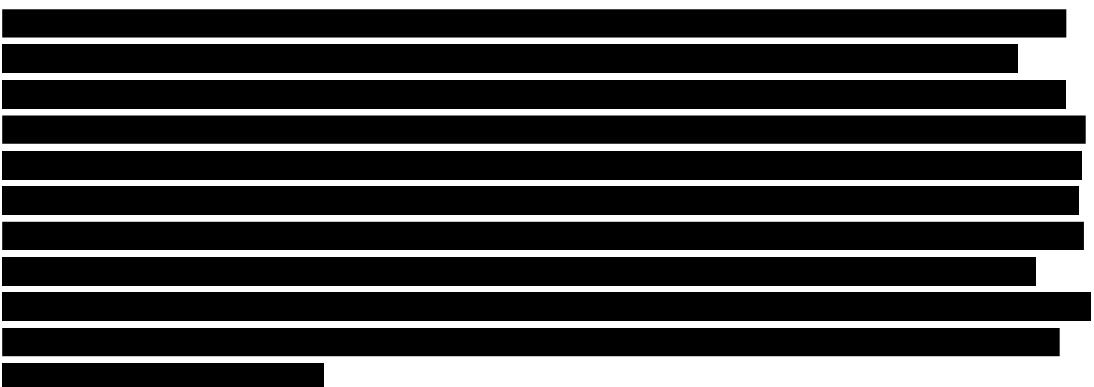
[The above excerpts relate to (b) (5), which, if true, would be classified and would not be publicly confirmed. Suggest you qualify by saying, "It has been reported that . . .", and that the discussion hew closely to what has been publicly reported.]

* * *

(b) (4)



(b) (4)



[The above excerpts reveal some deliberative information and tend to verify information that has not been publicly confirmed by the Government and that, if true, would relate to sensitive national security activities. Suggest they be recast to be more general or to rely more expressly on news reports or the 9/11 Commission Report; in any event, suggest that the bracketed language be deleted or stated very generally.]

* * *

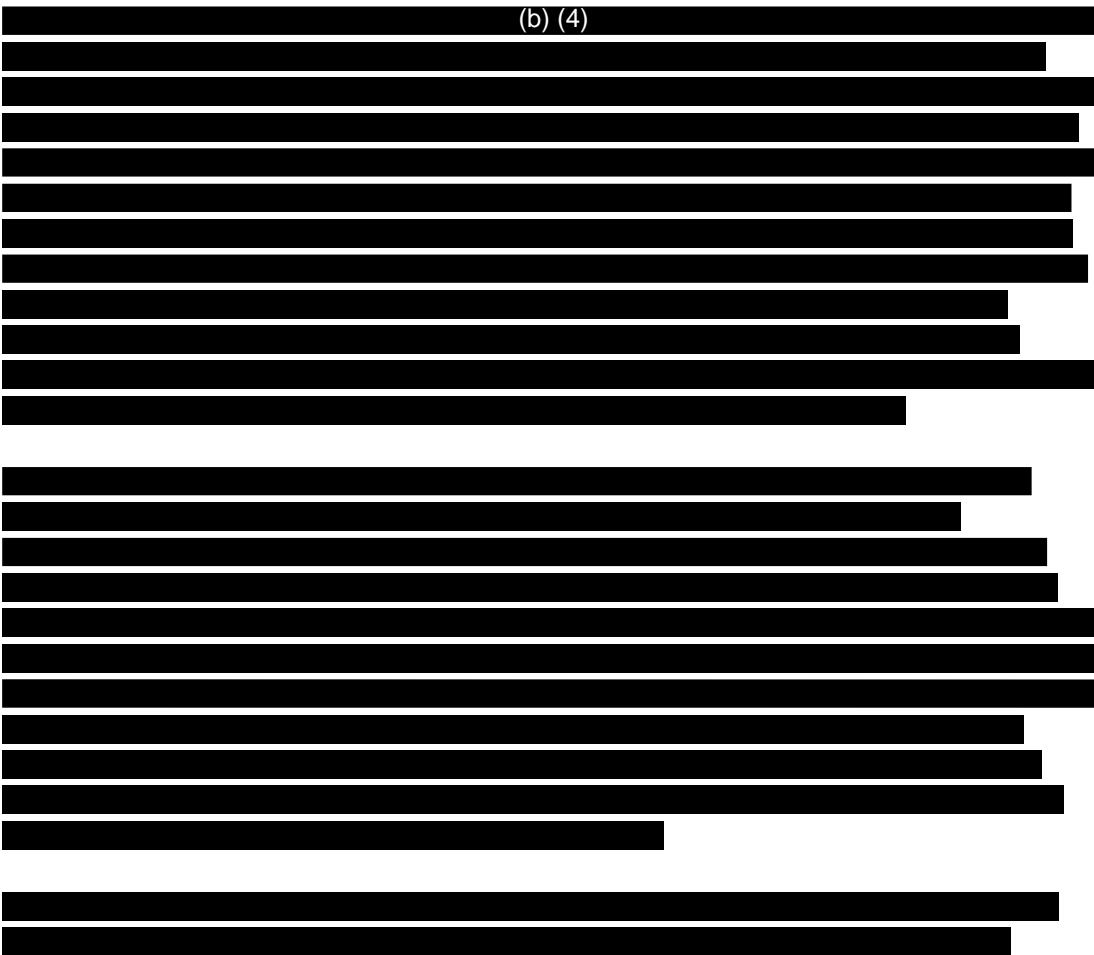
(b) (4)



[The above excerpt reveals internal deliberative information. Suggest it be deleted.]

* * *

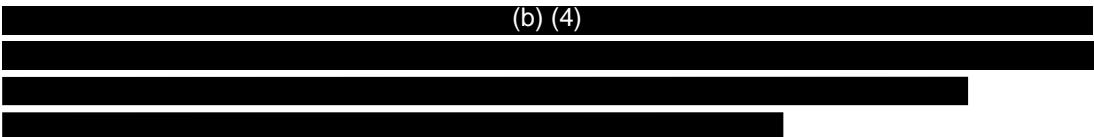
(b) (4)



[The above excerpts reveal internal deliberations and relate to possible sensitive national security information that would not be publicly confirmed. Suggest they be deleted or, if possible, summarized in a more general way.]

* * *

(b) (4)



[The bracketed language in the above excerpt reveals deliberative information. Suggest it be deleted.]

* * *

(b) (4)

[REDACTED].

[The bracketed language in the above excerpt reveals deliberative information. Suggest it be deleted.]

* * *

(b) (4)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

[The bracketed language in the above excerpt reveals internal deliberative information. Suggest it be deleted.]

* * *

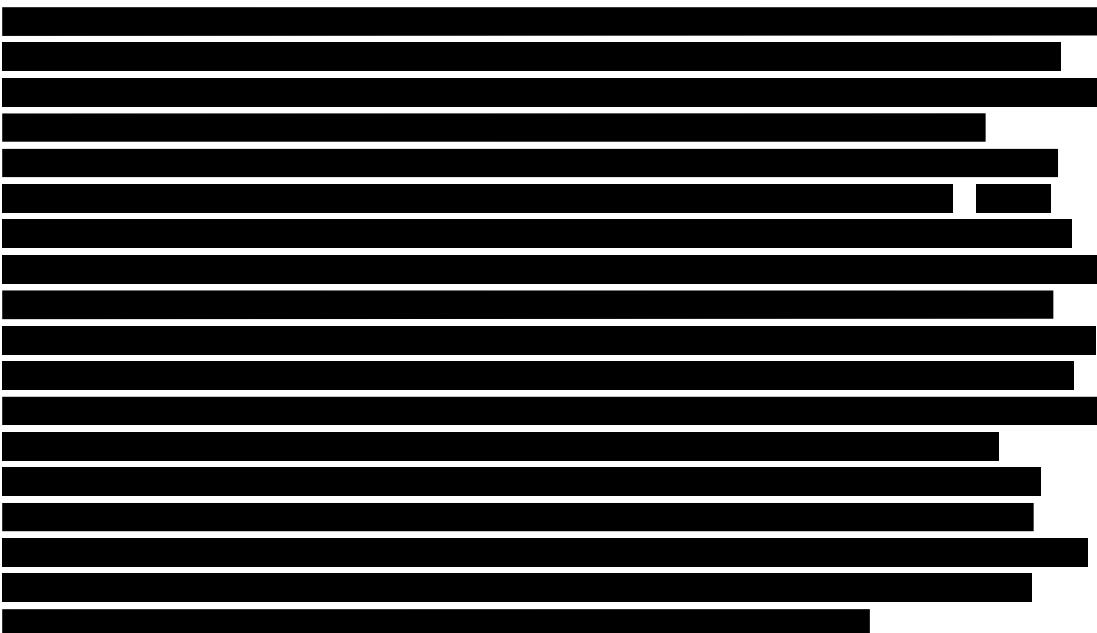
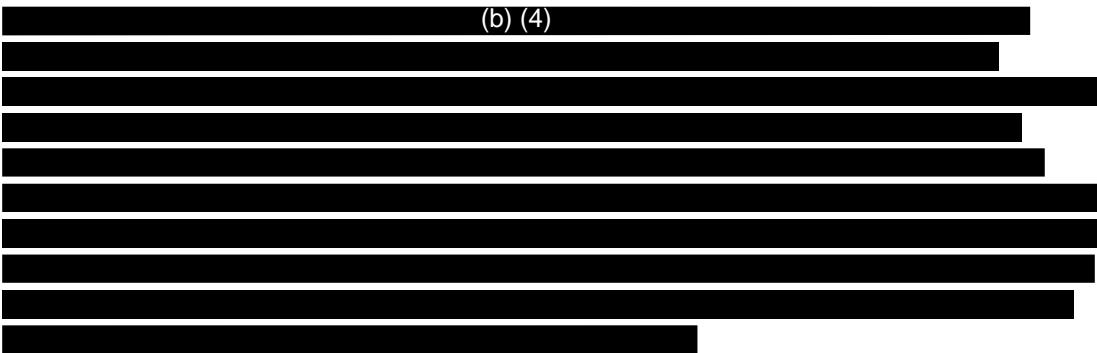
(b) (4)

[REDACTED]
[REDACTED]

[The above excerpt reveals nonpublic information that relates to [REDACTED] (b) (5), which, if true, would be classified and would not be publicly confirmed. Suggest that it be summarized in a more general way, with more specific reference to the discussion in the 9/11 Commission Report.]

* * *

(b) (4)



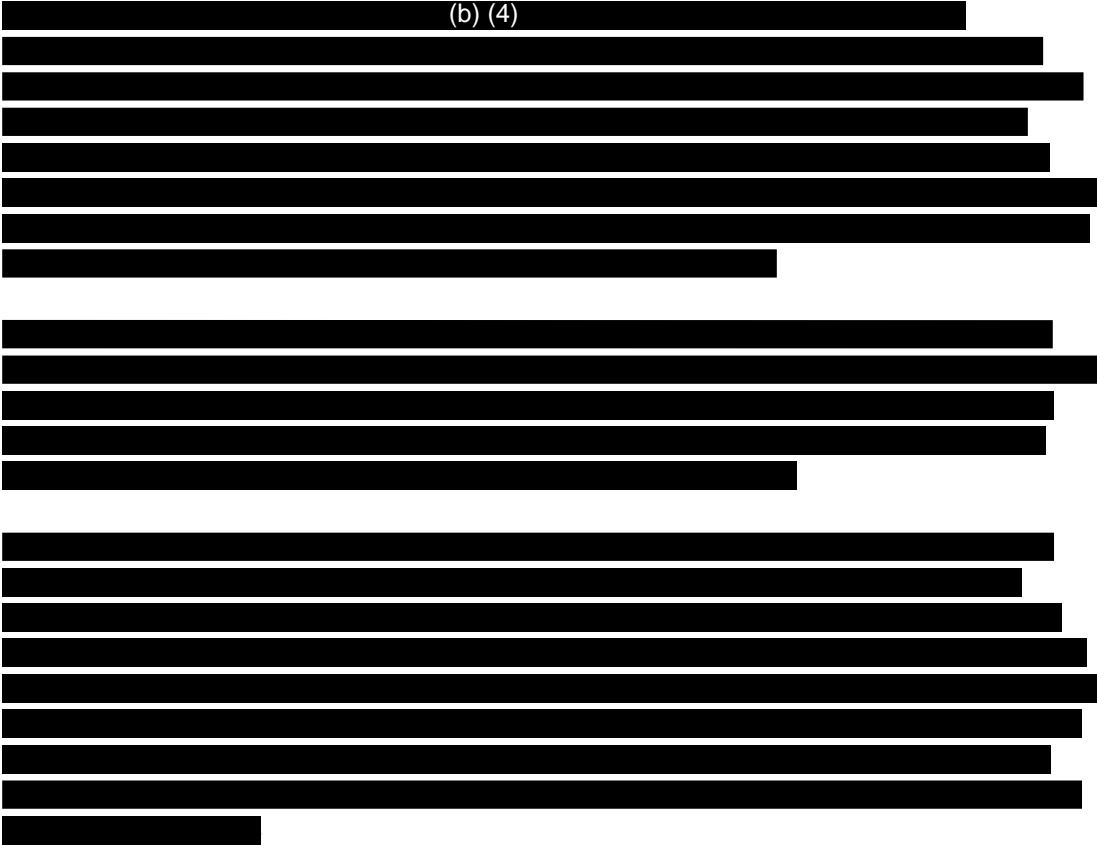
[The bracketed language in the above excerpts reveals internal deliberative information. Suggest it be deleted or that you substitute a summary of the discussion contained in the publicly released Working Group Report.]

* * *

Chapter 8

Military Commissions

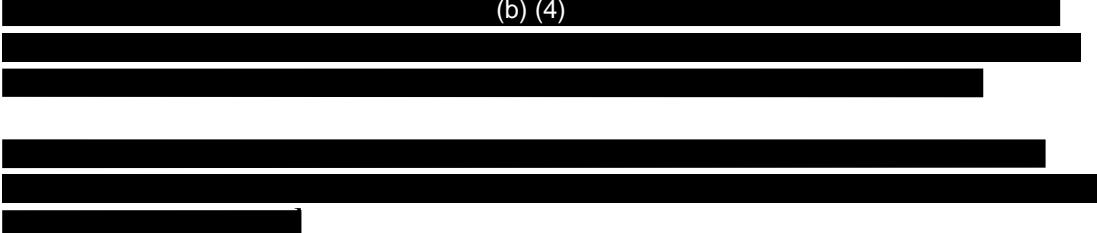
(b) (4)



[The above excerpts reveal internal deliberations. Suggest it be deleted or, if possible, summarized in a more general way.]

* * *

(b) (4)



[The above excerpts reveal internal deliberative thinking. Suggest they be deleted; bracketed language, however, may be okay if the Government position reflected by the bracketed language is publicly known.]

END

yoo@law.berkeley.edu

From: yoo@law.berkeley.edu
Sent: Thursday, June 22, 2006 6:29 PM
To: Bradbury, Steve
Subject: RE: Follow up on book review

Steve:

Many thanks. I am going to digest all of this - I appreciate your work (and Jim Baker's). I do not think that these changes (I've looked through it only very quickly) are going to create any big problems for me.

John

John Yoo
Professor of Law
Boalt Hall School of Law
University of California at Berkeley
Berkeley, CA 94720
510-643-5089 (voice)
510-642-3728 (fax)

-----Original Message-----

From: Steve.Bradbury@usdoj.gov [mailto:Steve.Bradbury@usdoj.gov]
Sent: Thursday, June 22, 2006 2:05 PM
To: yoo@law.berkeley.edu (Receipt Notification Requested) (IPM Return
Requested)
Subject: RE: Follow up on book review

John: Attached is our more detailed set of comments on various excerpts from your manuscript. You'll see that we've quoted the relevant excerpts and then provided a comment on the issues raised and our suggestion for how to handle it. I hope this is helpful, and, again, I'm very sorry for the time it's taken us to get this back to you. Steve

-----Original Message-----

From: yoo@law.berkeley.edu [mailto:yoo@law.berkeley.edu]
Sent: Wednesday, June 14, 2006 7:21 PM
To: Bradbury, Steve

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Bradbury, Steve

From: Bradbury, Steve
Sent: Friday, June 23, 2006 2:05 PM
To: Eisenberg, John
Subject: Re: Follow up on book review

Why don't you just tell him you've been swamped. That's true.

-----Original Message-----

From: Eisenberg, John
To: Bradbury, Steve
Sent: Fri Jun 23 14:01:20 2006
Subject: RE: Follow up on book review

Is it possible for me to tell John that I really couldn't turn to the chapters he asked me to look at until this was done? I could just say that I am sorry but that I have been totally swamped.

-----Original Message-----

From: Bradbury, Steve
Sent: Thursday, June 22, 2006 5:07 PM
To: Colborn, Paul P; Elwood, John; Eisenberg, John; Baker, James
Subject: FW: Follow up on book review

FYI

-----Original Message-----

From: Bradbury, Steve
Sent: Thursday, June 22, 2006 5:06 PM
To: 'yoo@law.berkeley.edu'

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Koffsky, Daniel L

From: Koffsky, Daniel L
Sent: Tuesday, September 19, 2006 10:36 AM
To: Colborn, Paul P
Subject: RE: book

Thanks, Paul.

-----Original Message-----

From: Colborn, Paul P
Sent: Tuesday, September 19, 2006 10:36 AM
To: Koffsky, Daniel L
Subject: FW: book

fyi

-----Original Message-----

From: Frisch, Stuart
Sent: Thursday, May 11, 2006 12:34 PM
To: Colborn, Paul P
Cc: Margolis, David

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duplicate

jgoldsmith@law.harvard.edu

From: jgoldsmith@law.harvard.edu
Sent: Tuesday, September 19, 2006 10:55 AM
To: Koffsky, Daniel L
Subject: RE: hi

Thanks Dan.

Quoting "Daniel.L.Koffsky@usdoj.gov" <Daniel.L.Koffsky@usdoj.gov>:

> Jack: Good to hear from you; I hope you and your family are well.
>
> I'm assuming that you're not asking about the representation of a clients,
> but the publication of articles and books. I'm attaching two links. The
> first link takes you to the regulations about the prepublication review
> related to possible disclosure of classified information. Of particular
> relevance is 28 C.F.R. 17.18. The second link goes to a chart provided by
> the Departmental Ethics Office, which includes an entry for
> "Confidentiality."
>
> Let me know if you have other questions.
>
> --Dan
>
>
> <http://search.netscape.com/ns/boomframe.jsp?query=code+of+federal+regulations>
>
> <http://www.usdoj.gov/jmd/ethics/docs/ptchart.htm>
>
>
> -----Original Message-----
> From: jgoldsmith@law.harvard.edu [<mailto:jgoldsmith@law.harvard.edu>]
> Sent: Monday, September 18, 2006 11:17 AM
> To: Koffsky, Daniel L
> Subject: hi
>
> Dan: I hope you, your family, and the office are well. I just saw John
> Yoo's book, and it made me wonder about the legal restrictions are on
> writing about matters related to government service. Do you have a
> checklist somewhere, and also, can you describe the process of submission
> and review? We can chat if that is easier. Jack
>
>
>

jgoldsmith@law.harvard.edu

From: jgoldsmith@law.harvard.edu
Sent: Wednesday, September 20, 2006 8:44 AM
To: Koffsky, Daniel L
Subject: RE: hi

Thanks!

At 08:24 AM 9/20/2006, you wrote:

>Jack: Sorry. I've copied the most important provision below (28 C.F.R.
>17.18). It has more information than you'll need, but as you'll see, the
>Counsel for Intelligence Policy (i.e. the head of OIPR) performs the
>review for classified information. --Dan
>
>§ 17.18 Prepublication review.
>
>
>(a) All individuals with authorized access to Sensitive Compartmented
>Information shall be required to sign nondisclosure agreements containing
>a provision for prepublication review to assure deletion of Sensitive
>Compartmented Information and other classified information. Sensitive
>Compartmented Information is information that not only is classified for
>national security reasons as Top Secret, Secret, or Confidential, but also
>is subject to special access and handling requirements because it involves
>or derives from particularly sensitive intelligence sources and methods.
>The prepublication review provision will require Department of Justice
>employees and other individuals who are authorized to have access to
>Sensitive Compartmented Information to submit certain material, described
>further in the agreement, to the Department prior to its publication to
>provide an opportunity for determining whether an unauthorized disclosure
>of Sensitive Compartmented Information or other classified information
>would occur as a consequence of its publication.
>
>(b) Persons subject to these requirements are invited to discuss their
>plans for public disclosures of information that may be subject to these
>obligations with authorized Department representatives at an early stage,
>or as soon as circumstances indicate these policies must be considered.
>Except as provided in paragraph (j) of this section for FBI personnel, all
>questions concerning these obligations should be addressed to the Counsel
>for Intelligence Policy, Department of Justice, 10th & Constitution

>Avenue, NW., Washington, DC 20500. The official views of the Department on
>whether specific materials require prepublication review may be expressed
>only by the Counsel for Intelligence Policy and persons should not act in
>reliance upon the views of other Department personnel.

>
>(c) Prepublication review is required only as expressly provided for in a
>nondisclosure agreement. However, all persons who have had access to
>classified information have an obligation to avoid unauthorized
>disclosures of such information. Therefore, persons who have such access
>but are not otherwise required to submit to prepublication review under
>the terms of an employment or other nondisclosure agreement are encouraged
>to submit material for prepublication review voluntarily if they believe
>that such material may contain classified information.

>
>(d) The nature and extent of the material that is required to be submitted
>for prepublication review under nondisclosure agreements is expressly
>provided for in those agreements. It should be clear, however, that such
>requirements do not extend to any materials that exclusively contain
>information lawfully obtained at a time when the author has no employment,
>contract, or other relationship with the United States Government or that
>contain information exclusively acquired outside the scope of employment.

>
>(e) A person's obligation to submit material for prepublication review
>remains identical whether such person prepares the materials or causes or
>assists another person (such as a ghost writer, spouse, friend, or editor)
>in preparing the material. Material covered by a nondisclosure agreement
>requiring prepublication review must be submitted prior to discussing it
>with or showing it to a publisher, co-author, or any other person who is
>not authorized to have access to it. In this regard, it should be noted
>that a failure to submit such material for prepublication review
>constitutes a breach of the obligation and exposes the author to remedial
>action even in cases where the published material does not actually
>contain Sensitive Compartmented Information or classified information. See
>Snapp v. United States, 444 U.S. 507 (1980).

>
>(f) The requirement to submit material for prepublication review is not
>limited to any particular type of material or disclosure or methods of
>production. Written materials include not only book manuscripts but all
>other forms of written materials intended for public disclosure, such as
>(but not limited to) newspaper columns, magazine articles, letters to the
>editor, book reviews, pamphlets, scholarly papers, and fictional material.

>
>(g) Oral statements are also within the scope of a prepublication review
>requirement when based upon written materials, such as an outline of the
>statements to be made. There is no requirement to prepare written

>materials for review, however, unless there is reason to believe in
>advance that oral statements may contain Sensitive Compartmented
>Information or other information required to be submitted for review under
>the terms of the nondisclosure agreement. Thus, a person may participate
>in an oral presentation where there is no opportunity for prior
>preparation (e.g., news interview, panel discussion) without violating the
>provisions of this paragraph.

>

>(h) Material submitted for republication review will be reviewed solely
>for the purpose of identifying and preventing the disclosure of Sensitive
>Compartmented Information and other classified information. This review
>will be conducted in an impartial manner without regard to whether the
>material is critical of or favorable to the Department. No effort will be
>made to delete embarrassing or critical statements that are unclassified.
>Materials submitted for review will be disseminated to other persons or
>agencies only to the extent necessary to identify classified information.

>

>(i) The Counsel for Intelligence Policy (or, in the case of FBI employees,
>the FBI's Office of Congressional and Public Affairs) will respond
>substantively to prepublication review requests within 30 working days of
>receipt of the submission. Priority shall be given to reviewing speeches,
>newspaper articles, and other materials that the author seeks to publish
>on an expedited basis. The Counsel's decisions may be appealed to the
>Deputy Attorney General, who will process appeals within 15 days of
>receipt of the appeal. The Deputy Attorney General's decision is final and
>not subject to further administrative appeal. Persons who are dissatisfied
>with the final administrative decision may obtain judicial review either
>by filing an action for declaratory relief or giving the Department notice
>of their intention to proceed despite the Department's request for
>deletions of classified information, and a reasonable opportunity (30
>working days) to file a civil action seeking a court order prohibiting
>disclosure. Employees and other affected individuals remain obligated not
>to disclose or publish information determined by the Government to be
>classified until any civil action is resolved.

>

>(j) The obligations of Department of Justice employees described in this
>subpart apply with equal force to employees of the FBI with following
>exceptions and provisos:

>

>(1) Nothing in this subpart shall supersede or alter obligations assumed
>under the basic FBI employment agreement.

>

>(2) FBI employees required to sign nondisclosure agreements containing a
>provision for prepublication review pursuant to this subpart shall submit

>materials for review to the Assistant Director, Office of Congressional
>and Public Affairs. Such individuals shall also submit questions as to
>whether specific materials require prepublication review under such
>agreements to that Office for resolution. Where such questions raise
>policy questions or concern significant issues of interpretation under
>such an agreement, the Assistant Director, Office of Congressional and
>Public Affairs, shall consult with the Counsel for Intelligence Policy
>prior to responding to the inquiry.

>
>(3) Decisions of the Assistant Director, Office of Congressional and
>Public Affairs, concerning the deletion of classified information, may be
>appealed to the Director, FBI, who will process appeals within 15 working
>days of receipt. Persons who are dissatisfied with the Director's decision
>may, at their option, appeal further to the Deputy Attorney General as
>provided in paragraph (i) of this section. Judicial review, as set forth
>in that paragraph, is available following final agency action in the form
>of a decision by the Director or, if the appeal process in paragraph (i)
>of this section is pursued, the Deputy Attorney General.

>
>-----Original Message-----

>From: jgoldsmith@law.harvard.edu [mailto:jgoldsmith@law.harvard.edu]

>Sent: Tuesday, September 19, 2006 8:54 PM

>To: Koffsky, Daniel L

>Subject: RE: hi

>
>Cannot open first link -- is there another? Thanks

>
>
>Quoting "Daniel.L.Koffsky@usdoj.gov" <Daniel.L.Koffsky@usdoj.gov>:

duplicate

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Koffsky, Daniel L

From: Koffsky, Daniel L
Sent: Monday, October 23, 2006 8:09 AM
To: 'jgoldsmith@law.harvard.edu'
Subject: RE: hi

Jack: A prepublication review for classified information, as set in the nondisclosure agreements signed by some government employees, is mandatory. There is no parallel requirement of prior review for confidential information. Nevertheless, some former employees ask the Department to undertake a review for confidential information, so that no dispute can later arise. Paul Colborn is our expert on disclosure of information and can advise you about the confidentiality requirements. If you like, I can forward these messages to him, and you and he can figure out what to do next. --Dan

-----Original Message-----

From: jgoldsmith@law.harvard.edu [<mailto:jgoldsmith@law.harvard.edu>]
Sent: Sunday, October 22, 2006 7:26 AM
To: Koffsky, Daniel L
Subject: RE: hi

Dan, thanks for these links. I have contacted Counsel for Intelligence Policy in connection with prepublication review. But the "confidentiality" rules are hard for me to understand. Is there someone in the Department with whom I can consult on these matters? Should I consult the Departmental Ethics Office? Is this different than OPR? Thanks, Jack

At 10:44 AM 9/19/2006, you wrote:

duplicate



Colborn, Paul P

From: Colborn, Paul P
Sent: Monday, November 20, 2006 1:58 PM
To: Bradbury, Steve
Subject: RE: Book

Sure. I'll stop by then.

-----Original Message-----

From: Bradbury, Steve
Sent: Monday, November 20, 2006 1:58 PM
To: Colborn, Paul P
Subject: Re: Book

How about around 3:15?

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve
Sent: Mon Nov 20 13:50:06 2006
Subject: RE: Book

Do you have time now to discuss this, as well as the (b) (5) draft opinion request re (b) (5)?

-----Original Message-----

From: Bradbury, Steve
Sent: Monday, November 20, 2006 11:40 AM
To: Colborn, Paul P
Subject: Re: Book

Okay.

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve
Sent: Mon Nov 20 11:33:04 2006
Subject: FW: Book

Steve, I think we should discuss this before I reply to Jack.

-----Original Message-----

From: jgoldsmith@law.harvard.edu [<mailto:jgoldsmith@law.harvard.edu>]
Sent: Monday, November 20, 2006 11:02 AM
To: Colborn, Paul P
Subject: Re: Book

Paul,

Some preliminary questions, please:

1. What is the source and nature of the review that you do? Is it for attorney-client information? Is there a regulation for what you do akin to the one that provides for review of classified information? I don't at all mean this in a confrontational way, but I do not recall signing a contract re attorney-client akin to the one I signed re classified information, and I do not know of any pertinent regs (but you may disabuse me of that), so I am just wondering what the legal basis is for your review.

2. Does attorney-client privilege work the same way here as in the private sector? There is lots of debate and disagreement, under bar codes and court decisions, about the nature and scope of the privilege in the government, and on who the client is. Any guidelines you can give me, before I submit the manuscript, would be much appreciated.

3. I have recently read bios and memoirs from many former DOJ officials -- Francis Biddle, Robert Jackson, Griffin Bell, Doug Kmiec, Charles Fried, Archibald Cox, Elliot Richardson, and many many more, in addition, of course, to Yoo and Ashcroft -- and most of these memoirs were full of detailed conversations within DOJ or between DOJ and the White House or the President. How is this possible?

Thanks,

Jack

Quoting "Paul.P.Colborn@usdoj.gov" <Paul.P.Colborn@usdoj.gov>:

> I'm as well as anyone [REDACTED] (b) (6) [REDACTED] can be!
>
> Hope you and your family are well.
>
> -----Original Message-----
> From: jgoldsmith@law.harvard.edu <jgoldsmith@law.harvard.edu>
> To: Kennedy, Lionel
> CC: Colborn, Paul P
> Sent: Sat Nov 18 13:52:12 2006
> Subject: Re: Book
>
> Thanks Lionel. Paul, I'll be in touch soon. Hope you are well, Jack
>
> Quoting "Lionel.Kennedy@usdoj.gov" <Lionel.Kennedy@usdoj.gov>:
>
>> Jack -
>>
>> When you have a draft of your book or some chapters of it, please mail it
> to
>> me. I will provide a copy to OLC. A week's notice that it is coming would
> be
>> helpful.
>>
>> OLC has told me that Paul Colborn will be your contact there, so I would
> call
>> him with questions about attorney-client or other nonpublic information.
>> Please call me if there is anything you want to discuss about possibly
>> classified information.
>>
>> Thanks for getting in touch and good luck writing, Lionel
>>
>>
>> Lionel Kennedy
>> Deputy Counsel for Intelligence Law
>> National Security Division
>> U.S. Department of Justice
>> 950 Pennsylvania Avenue, N.W.
>> Suite 6150
>> Washington, DC 20530
>> (202) 353-9454
>> -----
>> Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

>>
>>
>
>
>

Bradbury, Steve

From: Bradbury, Steve
Sent: Monday, November 20, 2006 3:38 PM
To: Bradbury, Steve
Subject: FW: Follow up on book review
Attachments: Yoo Manuscript Excerpts2.doc

-----Original Message-----

From: Bradbury, Steve
Sent: Thursday, June 22, 2006 5:06 PM
To: 'yoo@law.berkeley.edu'

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duplicate

Bradbury, Steve

From: Bradbury, Steve
Sent: Monday, November 20, 2006 4:41 PM
To: Colborn, Paul P
Subject: Re: Follow up on book review

I'm available now. Thx

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve
Sent: Mon Nov 20 16:33:08 2006
Subject: RE: Follow up on book review

Pls let me know when you're free to resume our conversation.

-----Original Message-----

From: Bradbury, Steve
Sent: Monday, November 20, 2006 3:37 PM
To: Colborn, Paul P
Subject: FW: Follow up on book review

Here's what I earlier sent to you on John Yoo's book review. Steve

-----Original Message-----

From: Bradbury, Steve
Sent: Thursday, June 22, 2006 5:07 PM
To: Colborn, Paul P; Elwood, John; Eisenberg, John; Baker, James

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duplicate

Colborn, Paul P

From: Colborn, Paul P
Sent: Tuesday, November 21, 2006 10:38 AM
To: 'jgoldsmith@law.harvard.edu'
Cc: Bradbury, Steve
Subject: RE: Book

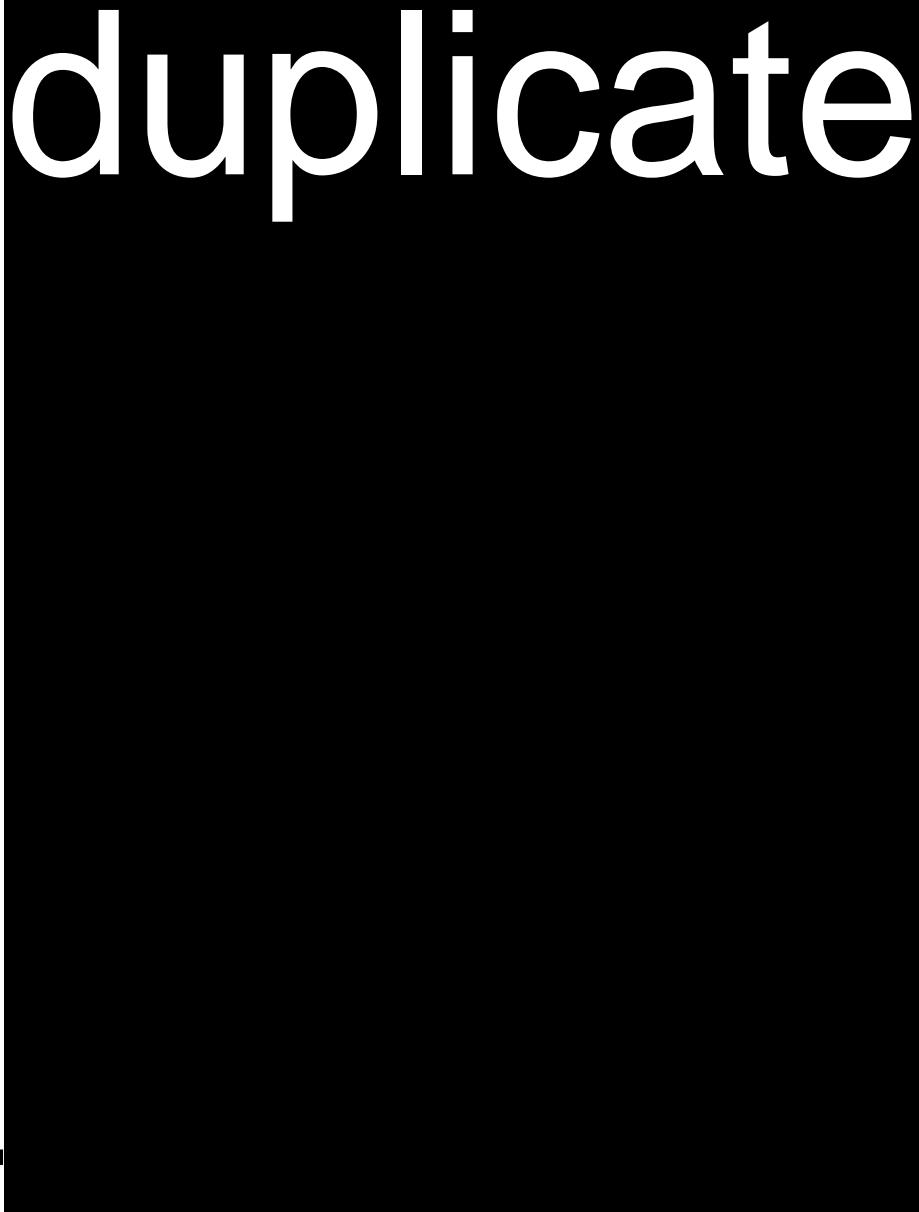
Jack, I'd be happy to talk with you about these questions. Please call me at [REDACTED] (b) (6). My schedule is fairly open the next two days.

Paul

-----Original Message-----

From: jgoldsmith@law.harvard.edu [<mailto:jgoldsmith@law.harvard.edu>]
Sent: Monday, November 20, 2006 11:02 AM
To: Colborn, Paul P

duplicate



duplicate

Colborn, Paul P

From: Colborn, Paul P
Sent: Tuesday, November 21, 2006 11:38 AM
To: Bradbury, Steve
Subject: RE: Book

Jack just called. He seemed reasonably content with what I had to say about the justification for the privilege review. We also talked a bit about process and policy when former employees are called to testify in Congress.

I expect that he will submit the manuscript for our privilege review. I said I didn't think we had a preference as to whether it came all at one time or in chapters. I said I thought you and I would review it and discuss any privilege concerns we have, as we did with John Yoo.

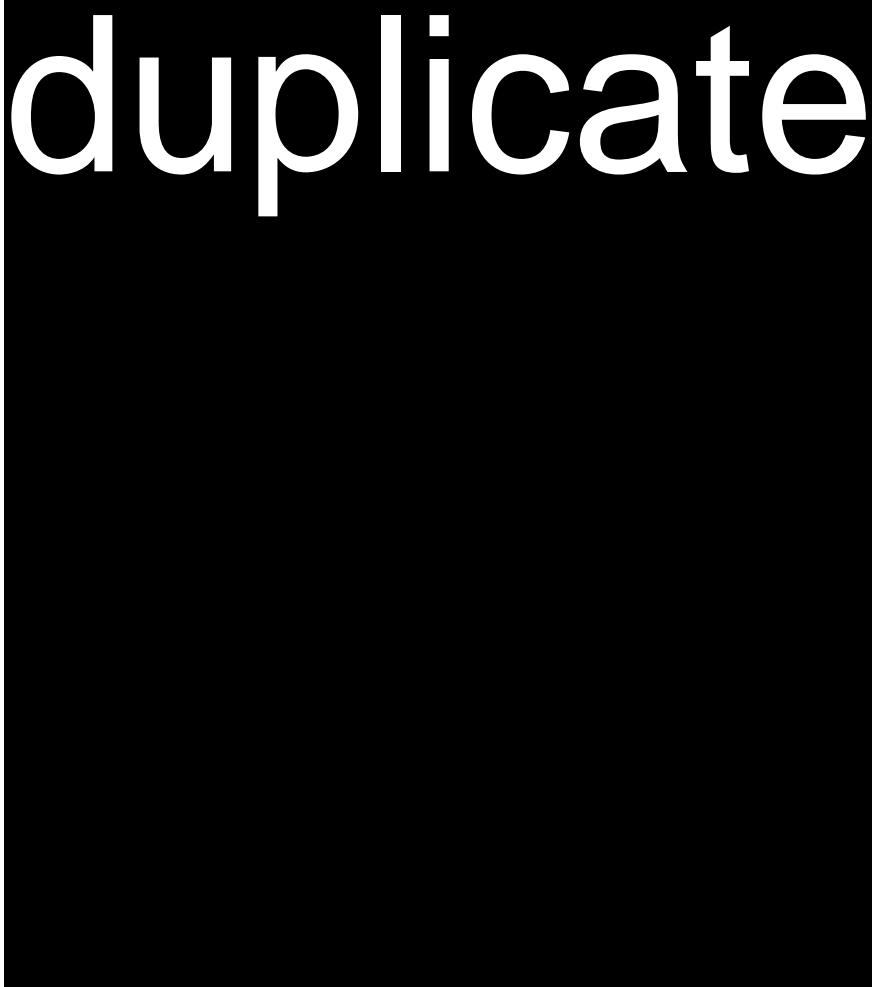
-----Original Message-----

From: jgoldsmith@law.harvard.edu [<mailto:jgoldsmith@law.harvard.edu>]
Sent: Tuesday, November 21, 2006 10:57 AM
To: Colborn, Paul P
Cc: Bradbury, Steve
Subject: RE: Book

I'll call tomorrow. Thanks. (Hi Steve.)

Quoting "Paul.P.Colborn@usdoj.gov" <Paul.P.Colborn@usdoj.gov>:

duplicate



duplicate

duplicate

Jack Goldsmith

From: Jack Goldsmith
Sent: Wednesday, May 9, 2007 9:42 AM
To: Koffsky, Daniel L
Subject: RE: hi

Thanks Dan. Jack

From: Koffsky, Daniel L [mailto:Daniel.L.Koffsky@usdoj.gov]
Sent: Wed 5/9/2007 9:35 AM
To: Jack Goldsmith
Subject: RE: hi

Jack: If you decide to proceed, you should get in touch with Paul Colborn. I understand that the Department has some policies, in addition to the rules about classified information from other agencies, but you can come to your former office (rather than, say, OIPR).

-Dan

From: Jack Goldsmith [mailto:jgoldsmith@law.harvard.edu]
Sent: Monday, May 07, 2007 9:00 AM
To: Koffsky, Daniel L
Subject: RE: hi

Thanks Dan. In the last week I have come to doubt that I will use the process, but I might, and would still like to know about it if it is not too much trouble. Best, Jack

From: Koffsky, Daniel L [mailto:Daniel.L.Koffsky@usdoj.gov]
Sent: Mon 5/7/2007 8:16 AM
To: Jack Goldsmith
Subject: RE: hi

Jack: Yes, I did. I made an inquiry last week and should have an answer shortly about the process. -Dan

From: Jack Goldsmith [mailto:jgoldsmith@law.harvard.edu]
Sent: Sunday, May 06, 2007 7:09 AM
To: Koffsky, Daniel L
Subject: RE: hi

Dan, just checking to confirm that you got my email last week. Thanks, jack

From: Daniel.L.Koffsky@usdoj.gov [mailto:Daniel.L.Koffsky@usdoj.gov]
Sent: Mon 11/13/2006 2:38 PM
To: jgoldsmith@law.harvard.edu
Subject: RE: hi

Jack: I apologize, abjectly, for not replying earlier. In 1993, Webb Hubbell took the OLC office space closest to the AG's

office. That move was not part of the renovations. For some -- perhaps most -- of the period of the renovations, however, OLC was on the 3rd floor. --Dan

-----Original Message-----

From: jgoldsmith@law.harvard.edu [mailto:jgoldsmith@law.harvard.edu]

Sent: Monday, October 23, 2006 8:56 AM

To: Koffsky, Daniel L

Subject: RE: hi

Thanks Dan. I'll contact Paul.

Question: When did OLC move down the hall from its perch next to the AG's office? Someone said that Hubbell did that, and that during all of Clinton and the first Bush term, OLC was down the hallway. Did the original Hubbell move have anything to do with refurbishing the building? Thanks.

Quoting "Daniel.L.Koffsky@usdoj.gov" <Daniel.L.Koffsky@usdoj.gov>:

duplicate

duplicate

Colborn, Paul P

From: Colborn, Paul P
Sent: Friday, May 11, 2007 3:58 PM
To: Bradbury, Steve; Koffsky, Daniel L
Subject: FW: Book

fyi

-----Original Message-----

From: Jack Goldsmith [<mailto:jgoldsmith@law.harvard.edu>]
Sent: Friday, May 11, 2007 2:28 PM
To: Kennedy, Lionel; Jack Goldsmith
Cc: Colborn, Paul P
Subject: RE: Book

Lionel:

I will have a draft ready late next week to submit, per below.

How shall I "mail it" to you? Email? Hard copy?

Thanks,

Jack

-----Original Message-----

From: Lionel.Kennedy@usdoj.gov [<mailto:Lionel.Kennedy@usdoj.gov>]
Sent: Saturday, November 18, 2006 5:23 AM
To: jgoldsmith@law.harvard.edu
Cc: Paul.P.Colborn@usdoj.gov
Subject: Book

Jack -

When you have a draft of your book or some chapters of it, please mail it to me. I will provide a copy to OLC. A week's notice that it is coming would be helpful.

OLC has told me that Paul Colborn will be your contact there, so I would call him with questions about attorney-client or other nonpublic information. Please call me if there is anything you want to discuss about possibly classified information.

Thanks for getting in touch and good luck writing, Lionel

Lionel Kennedy
Deputy Counsel for Intelligence Law
National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Suite 6150
Washington, DC 20530
(202) 353-9454

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

Bradbury, Steve

From: Bradbury, Steve
Sent: Thursday, May 17, 2007 9:05 AM
To: Colborn, Paul P
Subject: RE: Pre-publication review

Probably you, John Ei, and I should all review it.

-----Original Message-----

From: Colborn, Paul P
Sent: Thursday, May 17, 2007 8:48 AM
To: Bradbury, Steve
Subject: Fw: Pre-publication review

How shall we handle this?

-----Original Message-----

From: Sessoms, GayLa
To: Colborn, Paul P
Sent: Thu May 17 08:25:55 2007
Subject: Pre-publication review

Hi Paul: I called yesterday regarding the manuscript of Jack Goldsmith that we received for pre-pub review. Since the document contains OLC equities, we would appreciate your input. Let me know when it is convenient to walk a copy to your office. Have a great day. GayLa (6-5460)

Edney, Michael

From: Edney, Michael
Sent: Thursday, May 17, 2007 8:32 PM
To: Bradbury, Steve
Subject: Fw: Have you guys seen this blurb for Goldsmith's upcoming book?

Have we done a pre-publication review on this?

-----Original Message-----

From: Smith, Brad (OLC)
To: Edney, Michael
Sent: Thu May 17 20:25:52 2007
Subject: Fw: Have you guys seen this blurb for Goldsmith's upcoming book?

-----Original Message-----

From: Smith, Brad (OLC)
To: Bamzai, Aditya; Park, Michael H (OLC)
Sent: Wed May 16 19:17:18 2007
Subject: RE: Have you guys seen this blurb for Goldsmith's upcoming book?

Wow. It looks interesting.

From: Bamzai, Aditya
Sent: Wednesday, May 16, 2007 7:16 PM
To: Smith, Brad (OLC); Park, Michael H (OLC)
Subject: Have you guys seen this blurb for Goldsmith's upcoming book?

http://www.amazon.com/Terror-Presidency-Judgment-Inside-Administration/dp/0393065502/ref=sr_1_1/105-6565480-3299622?ie=UTF8&s=books&qid=1179357136&sr=8-1

Sessoms, GayLa

From: Sessoms, GayLa
Sent: Tuesday, May 22, 2007 9:49 AM
To: Colborn, Paul P
Subject: FW: Pre-publication review

Paul - Still trying to transmit this document to OLC. Please let me know if I should coordinate with someone else in your office. Thanks, GayLa

From: Sessoms, GayLa
Sent: Thursday, May 17, 2007 8:26 AM
To: Colborn, Paul P

duplicate

Sessoms, GayLa

From: Sessoms, GayLa
Sent: Tuesday, May 22, 2007 2:37 PM
To: Colborn, Paul P
Subject: RE: Pre-publication review

Please tell me a good time for you and I will bring it then - what's your room number?

From: Colborn, Paul P
Sent: Tuesday, May 22, 2007 2:28 PM
To: Bradbury, Steve; Kennedy, Lionel
Cc: Eisenberg, John; Sessoms, GayLa
Subject: RE: Pre-publication review

Gayla, I can accept delivery today, but please call first.

From: Bradbury, Steve
Sent: Tuesday, May 22, 2007 2:22 PM
To: Kennedy, Lionel
Cc: Eisenberg, John; Colborn, Paul P; Sessoms, GayLa
Subject: RE: Pre-publication review

We do want to review it, yes. Pls arrange for a copy to go to Paul Colborn in our office, and John Eisenberg and I will coordinate with him. Thx!

From: Kennedy, Lionel
Sent: Tuesday, May 22, 2007 2:20 PM
To: Bradbury, Steve
Cc: Eisenberg, John; Colborn, Paul P; Sessoms, GayLa
Subject: Pre-publication review

Steve-- NSD has received for pre-publication review a book by Jack Goldsmith entitled The Terror Presidency. GayLa Sessoms is coordinating that review for NSD. I assume that OLC would want to look at it. Can you please let GayLa know whether OLC wants to review it and, if so, to whom should we give a copy? The timeline for these is fairly short. Thx, Lionel

Colborn, Paul P

From: Colborn, Paul P
Sent: Thursday, May 24, 2007 2:43 PM
To: Bradbury, Steve
Subject: Goldsmith Manuscript

Ready to bring this to you.

Colborn, Paul P

From: Colborn, Paul P
Sent: Friday, May 25, 2007 5:33 PM
To: Bradbury, Steve
Cc: Elwood, John; Eisenberg, John
Subject: Goldsmith Transcript
Attachments: goldsmithmanuscript.wpd

I haven't had much time this afternoon, but here's what I've drafted so far. I emailed Bette and asked that someone find the Scalia confirmation testimony on Tuesday.

Colborn, Paul P

From: Colborn, Paul P
Sent: Tuesday, May 29, 2007 9:57 AM
To: Bradbury, Steve
Subject: RE: Goldsmith Manuscript

Yes, but what's the process for identifying "each one"? Perhaps we could make one copy of the manuscript, and have one (or each) of the group (Eisenberg, you and me?) bracket the language (in differing colors, if more than one of us does this) he nominates for consideration.

Alternatively, schedule a meeting at which each of us has a copy in front of us and we just go through it page by page?

-----Original Message-----

From: Bradbury, Steve
Sent: Tuesday, May 29, 2007 9:53 AM
To: Colborn, Paul P
Subject: Re: Goldsmith Manuscript

I'd like to sit down and talk through each one.

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve
Sent: Tue May 29 09:43:55 2007
Subject: Goldsmith Manuscript

How do you want to proceed with respect to reaching agreement within OLC on what passages we think should be changed?

Colborn, Paul P

From: Colborn, Paul P
Sent: Tuesday, May 29, 2007 3:00 PM
To: Bradbury, Steve; Elwood, John; Eisenberg, John
Subject: RE: Goldsmith Transcript
Attachments: goldsmithmanuscript.wpd

Here's another draft, incorporating Elwood's edit and following up on Eisenberg's comment by adding [REDACTED] (b) (5)

[REDACTED]

-----Original Message-----

From: Bradbury, Steve
Sent: Saturday, May 26, 2007 10:47 AM
To: Colborn, Paul P; Elwood, John; Eisenberg, John
Subject: Re: Goldsmith Transcript

Both good suggestions.

-----Original Message-----

From: Colborn, Paul P
To: Elwood, John; Eisenberg, John; Colborn, Paul P; Bradbury, Steve
Sent: Sat May 26 09:52:43 2007
Subject: Re: Goldsmith Transcript

(b) (5) [REDACTED]

On Eisenberg's point, [REDACTED] (b) (5)

[REDACTED]

-----Original Message-----

From: Elwood, John
To: Eisenberg, John; Colborn, Paul P; Bradbury, Steve
Sent: Fri May 25 18:42:06 2007
Subject: RE: Goldsmith Transcript

I also thinks it looks really good. I might include [REDACTED] (b) (5)

[REDACTED]

From: Eisenberg, John
Sent: Friday, May 25, 2007 6:24 PM
To: Colborn, Paul P; Bradbury, Steve
Cc: Elwood, John
Subject: RE: Goldsmith Transcript

Looks good. I wonder if it might be good to [REDACTED] (b) (5)

[REDACTED]

From: Colborn, Paul P
Sent: Friday, May 25, 2007 5:33 PM
To: Bradbury, Steve

Cc: Elwood, John; Eisenberg, John

duplicate

Eisenberg, John

From: Eisenberg, John
Sent: Tuesday, May 29, 2007 3:21 PM
To: Colborn, Paul P; Bradbury, Steve; Elwood, John
Subject: RE: Goldsmith Transcript
Attachments: goldsmithmanuscript.wpd

Here's an edited version. The formatting gets messy with WP, but I just try to [REDACTED] (b) (5) [REDACTED]
[REDACTED]. I don't feel adamant about this change.

-----Original Message-----

From: Colborn, Paul P
Sent: Tuesday, May 29, 2007 3:00 PM
To: Bradbury, Steve; Elwood, John; Eisenberg, John

duplicate

duplicate

Colborn, Paul P

From: Colborn, Paul P
Sent: Friday, June 1, 2007 10:03 AM
To: Bradbury, Steve; Elwood, John; Eisenberg, John
Subject: Letter to Goldsmith
Attachments: goldsmithmanuscript.wpd

Attached is another draft of the letter. I've added [REDACTED] (b) (5) [REDACTED] some language on [REDACTED] (b) (5) [REDACTED]. Comments?

<<goldsmithmanuscript.wpd>>

Bradbury, Steve

From: Bradbury, Steve
Sent: Friday, June 1, 2007 11:40 AM
To: Colborn, Paul P
Subject: RE: Goldsmith manuscript

I think he was planning to. He mentioned that to me yesterday. But I definitely don't want to make him come in just for this. Thx

-----Original Message-----

From: Colborn, Paul P
Sent: Friday, June 01, 2007 11:40 AM
To: Bradbury, Steve
Subject: FW: Goldsmith manuscript

Steve, was John planning to come to the office this afternoon in any event? If so, the obvious response to his offer is yes. If not, do you think we should ask him to?

-----Original Message-----

From: Elwood, John
Sent: Friday, June 01, 2007 11:35 AM
To: Colborn, Paul P
Subject: Re: Goldsmith manuscript

Unfortunately, I brought it home. I could return it to the office this afternoon.

-----Original Message-----

From: Colborn, Paul P
To: Elwood, John
CC: Bradbury, Steve
Sent: Fri Jun 01 11:31:36 2007
Subject: Goldsmith manuscript

John, in your absence, Steve would like to review the copy of the manuscript that has my penciled brackets around passages we might discuss with Jack. Is that copy in your office, and if so, could you tell me where, so I could retrieve it for Steve?

Paul

Colborn, Paul P

From: Colborn, Paul P
Sent: Friday, June 1, 2007 11:44 AM
To: Elwood, John
Cc: Bradbury, Steve
Subject: RE: Goldsmith manuscript

Please do, if you're planning to come in. We definitely don't want you to come in just for this.

-----Original Message-----

From: Elwood, John
Sent: Friday, June 01, 2007 11:35 AM
To: Colborn, Paul P
Subject: Re: Goldsmith manuscript

Unfortunately, I brought it home. I could return it to the office this afternoon.

-----Original Message-----

From: Colborn, Paul P
To: Elwood, John
CC: Bradbury, Steve
Sent: Fri Jun 01 11:31:36 2007
Subject: Goldsmith manuscript

John, in your absence, Steve would like to review the copy of the manuscript that has my penciled brackets around passages we might discuss with Jack. Is that copy in your office, and if so, could you tell me where, so I could retrieve it for Steve?

Paul

Colborn, Paul P

From: Colborn, Paul P
Sent: Friday, June 1, 2007 4:08 PM
To: Elwood, John
Subject: RE: I'm in

yes

From: Elwood, John
Sent: Friday, June 01, 2007 4:05 PM
To: Colborn, Paul P
Subject: I'm in

But on a conference call. What should I do with Goldsmith's manuscript. Give it to Steve B?

Elwood, John

From: Elwood, John
Sent: Friday, June 1, 2007 4:39 PM
To: Bradbury, Steve
Subject: Goldsmith manuscript

Steve: I dropped the version I had with Paul to give to you. I kept a copy for myself and will review Paul's bracketed text over the weekend.

Colborn, Paul P

From: Colborn, Paul P
Sent: Friday, June 1, 2007 5:44 PM
To: Bradbury, Steve
Subject: RE: Goldsmith manuscript

done

-----Original Message-----

From: Bradbury, Steve
Sent: Friday, June 01, 2007 5:40 PM
To: Colborn, Paul P
Subject: Re: Goldsmith manuscript

On my chair. Thx

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve
Sent: Fri Jun 01 16:37:44 2007
Subject: Goldsmith manuscript

Steve, John gave me the manuscript for safekeeping until you return from the WH. I'll need to leave today around 6. If you're not back by then, where should I put it for you?

Colborn, Paul P

From: Colborn, Paul P
Sent: Tuesday, June 5, 2007 10:27 AM
To: Bradbury, Steve
Cc: Elwood, John; Eisenberg, John
Subject: Goldsmith Transcript
Attachments: goldsmithmanuscript.shorter.wpd

Steve, attached is an alternative approach to my prior draft. This one [REDACTED] (b) (5)
[REDACTED]
What do you think?

Colborn, Paul P

From: Colborn, Paul P
Sent: Tuesday, June 5, 2007 1:04 PM
To: Bradbury, Steve
Cc: Elwood, John
Subject: Goldsmith Manuscript
Attachments: goldsmithmanuscript.wpd

Steve, here's a revision reflecting your edits. I think they all work well, with the possible exception of some redundancy or lack of clarity in the first two sentences of the penultimate paragraph.

Colborn, Paul P

From: Colborn, Paul P
Sent: Tuesday, June 5, 2007 1:58 PM
To: Bradbury, Steve
Cc: Elwood, John
Subject: Goldsmith Manuscript
Attachments: goldsmithmanuscript.wpd

Here's your minor editing to your revision.

Colborn, Paul P

Subject: Goldsmith Manuscript
Location: Steve's office

Start: Wednesday, June 6, 2007 3:30 PM
End: Wednesday, June 6, 2007 4:00 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Colborn, Paul P
Required Attendees: Bradbury, Steve; Elwood, John

When: Wednesday, June 06, 2007 3:30 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Steve's office

~~*~*~*~*~*

Colborn, Paul P

From: Colborn, Paul P
Sent: Wednesday, June 6, 2007 2:42 PM
To: Bradbury, Steve; Elwood, John
Subject: Goldsmith Manuscript
Attachments: goldsmithmanuscript.wpd

Here's another draft, reflecting minor edits from both of you.

Colborn, Paul P

Subject: Accepted: Goldsmith Manuscript

Location: Steve's office

Start: Wednesday, June 6, 2007 3:30 PM

End: Wednesday, June 6, 2007 4:00 PM

Recurrence: (none)

Meeting Status: No response required

Organizer: Colborn, Paul P

Colborn, Paul P

From: Colborn, Paul P
Sent: Wednesday, June 6, 2007 6:29 PM
To: Bradbury, Steve; Elwood, John
Subject: Goldsmith Manuscript
Attachments: goldsmithmanuscript.wpd

Another revision of the letter.

Bradbury, Steve

From: Bradbury, Steve
Sent: Thursday, June 7, 2007 10:50 AM
To: Colborn, Paul P; Elwood, John
Subject: Re: Goldsmith Manuscript

Thank you!

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve; Elwood, John
Sent: Thu Jun 07 10:35:52 2007
Subject: RE: Goldsmith Manuscript

Good luck in your testimony!

From: Bradbury, Steve
Sent: Thursday, June 07, 2007 9:31 AM
To: Elwood, John; Colborn, Paul P
Subject: RE: Goldsmith Manuscript

I'm pretty booked up preparing for my testimony this afternoon.

From: Elwood, John
Sent: Thursday, June 07, 2007 9:23 AM
To: Colborn, Paul P; Bradbury, Steve
Subject: RE: Goldsmith Manuscript

I'm available this morning and this afternoon except 3-4 pm. I have to work in some short meetings with Heath and Aditya/Rosemary sometime also.

From: Colborn, Paul P
Sent: Thursday, June 07, 2007 9:20 AM
To: Bradbury, Steve
Cc: Elwood, John
Subject: Goldsmith Manuscript

Steve, I'm not sure how we left things on whether you wanted the three of us to continue our review this morning.

Colborn, Paul P

From: Colborn, Paul P
Sent: Thursday, June 7, 2007 11:24 AM
To: Bradbury, Steve; Elwood, John
Subject: FW: Pre-publication review

fyi

From: Sessoms, GayLa
Sent: Thursday, June 07, 2007 11:23 AM
To: Colborn, Paul P
Cc: Kennedy, Lionel
Subject: RE: Pre-publication review

Paul - we have completed our review but not yet responded.

From: Colborn, Paul P
Sent: Wednesday, June 06, 2007 6:30 PM
To: Kennedy, Lionel; Bradbury, Steve
Cc: Eisenberg, John; Sessoms, GayLa; Gerry, Brett (NSD)
Subject: RE: Pre-publication review

Lionel, has NSD finished its review? If so, have you responded to Jack?

Paul

From: Kennedy, Lionel
Sent: Tuesday, May 22, 2007 2:20 PM
To: Bradbury, Steve
Cc: Eisenberg, John; Colborn, Paul P; Sessoms, GayLa

duplicate

Bradbury, Steve

From: Bradbury, Steve
Sent: Thursday, June 7, 2007 6:11 PM
To: Colborn, Paul P; Elwood, John
Subject: Re: Goldsmith Manuscript

Great

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve; Elwood, John
Sent: Thu Jun 07 18:00:43 2007
Subject: Goldsmith Manuscript

The Eisenberg copy is clean. All of the writing is on post-its attached to it.

Sessoms, GayLa

From: Sessoms, GayLa
Sent: Friday, June 8, 2007 8:50 AM
To: Kennedy, Lionel; Colborn, Paul P
Subject: RE: Pre-publication review

No

From: Kennedy, Lionel
Sent: Thursday, June 07, 2007 4:10 PM
To: Sessoms, GayLa; Colborn, Paul P
Subject: RE: Pre-publication review

[GayLa-have we heard from all entities that we sent the book out to?](#)

From: Sessoms, GayLa
Sent: Thursday, June 07, 2007 11:23 AM
To: Colborn, Paul P
Cc: Kennedy, Lionel

duplicate

Bradbury, Steve

From: Bradbury, Steve
Sent: Friday, June 8, 2007 7:38 PM
To: Robinson, Lawan
Subject: Letter to Jack Goldsmith
Attachments: goldsmithmanuscript.wpd

Lawan: Could you pls prepare the attached as a letter for my signature on Monday? It should be addressed to Professor Jack L. Goldsmith III at Harvard Law School, and we'll need to figure out his title and address, etc. Thanks! Steve

<<goldsmithmanuscript.wpd>>

Dear Jack:

Thank you very much for submitting your manuscript to the Department for review. The National Security Division will respond to you directly concerning the results of its classification review. I am writing you with respect to the review of the manuscript by the Office of Legal Counsel ("OLC") for privileged information.

Our review has identified a considerable number of passages in the manuscript that reveal confidential Executive Branch information. This information principally consists of confidential communications between the Office of Legal Counsel and the Office of the Counsel to the President. I am sincerely concerned about the potential impact on the institutional interests of OLC, and in particular on the future relationship between OLC and the White House Counsel's Office, if these client confidences were publicly disclosed. Jack, I have great respect for your principled approach to the law, and great fondness for you personally; and I have no doubt that the disclosures you wish to make in your book are ones you believe to be important for the benefit of history and the public interest. However, I feel constrained to explain why, from the institutional perspective of the Department of Justice, and specifically for the institutional sake of OLC, certain of those disclosures have the real potential to undermine our ability to function most effectively as the principal legal adviser to the Executive Branch.

As with any attorney-client relationship, the relationship between the White House Counsel's Office and OLC depends on trust and confidentiality. If the Counsel's Office becomes concerned that OLC attorneys may publish books or articles that reveal confidential communications between the two offices, I fear there will be an inevitable and significant weakening of that trust and expectation of confidentiality, which could well result in a chilling effect on the candid flow of information, advice, and discussion between the offices. I am sure you would agree that causing the Counsel's Office to be reluctant to seek advice from OLC, or to be inhibited in its communications with OLC, would only disserve the President, for whom the full and effective advice and assistance from legal counsel is essential to the discharge of his constitutional responsibilities. *See Assertion of Executive Privilege Regarding White House Counsel's Office Documents*, 20 Op. O.L.C. 2, 3 (1996) (Opinion for President Clinton from Attorney General Reno) ("I agree that the ability of the White House Counsel's Office to serve the President would be significantly impaired if the confidentiality of its communications . . . is not protected . . . Impairing the ability of the Counsel's Office to perform its important functions for the President would in turn impair the ability of you and future Presidents to carry out your constitutional responsibilities."). *See generally Confidentiality of the Attorney General's Communications in Counseling the President*, 6 Op. O.L.C. 481 (1982).

Former head of OLC Antonin Scalia cited this very "attorney-client relationship" during his 1986 Senate confirmation hearing for the Supreme Court when he declined to reveal advice that he had provided to President Ford more than ten years earlier, as head of OLC; then-Judge Scalia testified that he "should not disclose [the earlier advice] unless the President wants me to." *Nomination of Judge Antonin Scalia: Hearings Before S. Comm. on the Judiciary*, 99th Cong. 163-64 (1987). *See generally* Memorandum to Department of Justice Attorneys from Professional Responsibility Advisory Office, Re: *Professional Responsibility Issues for Department Attorneys and Assistant United States Attorneys to Consider Upon Leaving the*

Department for Other Employment, at 8-12 (August 2005) (discussing duty to maintain client confidences).

Jack, I would be happy to discuss with you the specific passages in the manuscript that most particularly raise these confidentiality concerns. If it would be helpful to you, I could also separately send you the relevant pages identifying those specific passages. In most cases, if not all, I think these passages could be cut, or paraphrased in a more general way, without losing the primary focus of the points made in the book.

I look forward to hearing from you on how you would like to proceed.

Best regards,

Steven G. Bradbury
Principal Deputy Assistant Attorney General

Bradbury, Steve

From: Bradbury, Steve
Sent: Saturday, June 9, 2007 9:30 AM
To: Elwood, John
Subject: Re: Draft message to Jack

Thx! I'll think about that.

-----Original Message-----

From: Elwood, John
To: Bradbury, Steve
Sent: Sat Jun 09 08:20:24 2007
Subject: Re: Draft message to Jack

OK to send. Here's my morning hand-wringing: [REDACTED] (b) (5)

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] On balance, I think the e-mail is good as is.

-----Original Message-----

From: Bradbury, Steve
To: Elwood, John
Sent: Sat Jun 09 07:23:22 2007
Subject: Fw: Draft message to Jack

John: Okay with you for me to send this message to Jack?

-----Original Message-----

From: Bradbury, Steve
To: Colborn, Paul P
Sent: Sat Jun 09 07:22:40 2007
Subject: Re: Draft message to Jack

That's okay. I'll send it today. Thx!

-----Original Message-----

From: Colborn, Paul P
To: Bradbury, Steve
Sent: Sat Jun 09 07:22:40 2007

Sent: Fri Jun 08 23:27:25 2007
Subject: Re: Draft message to Jack

Sorry I didn't read this until so late. Email is fine with me.

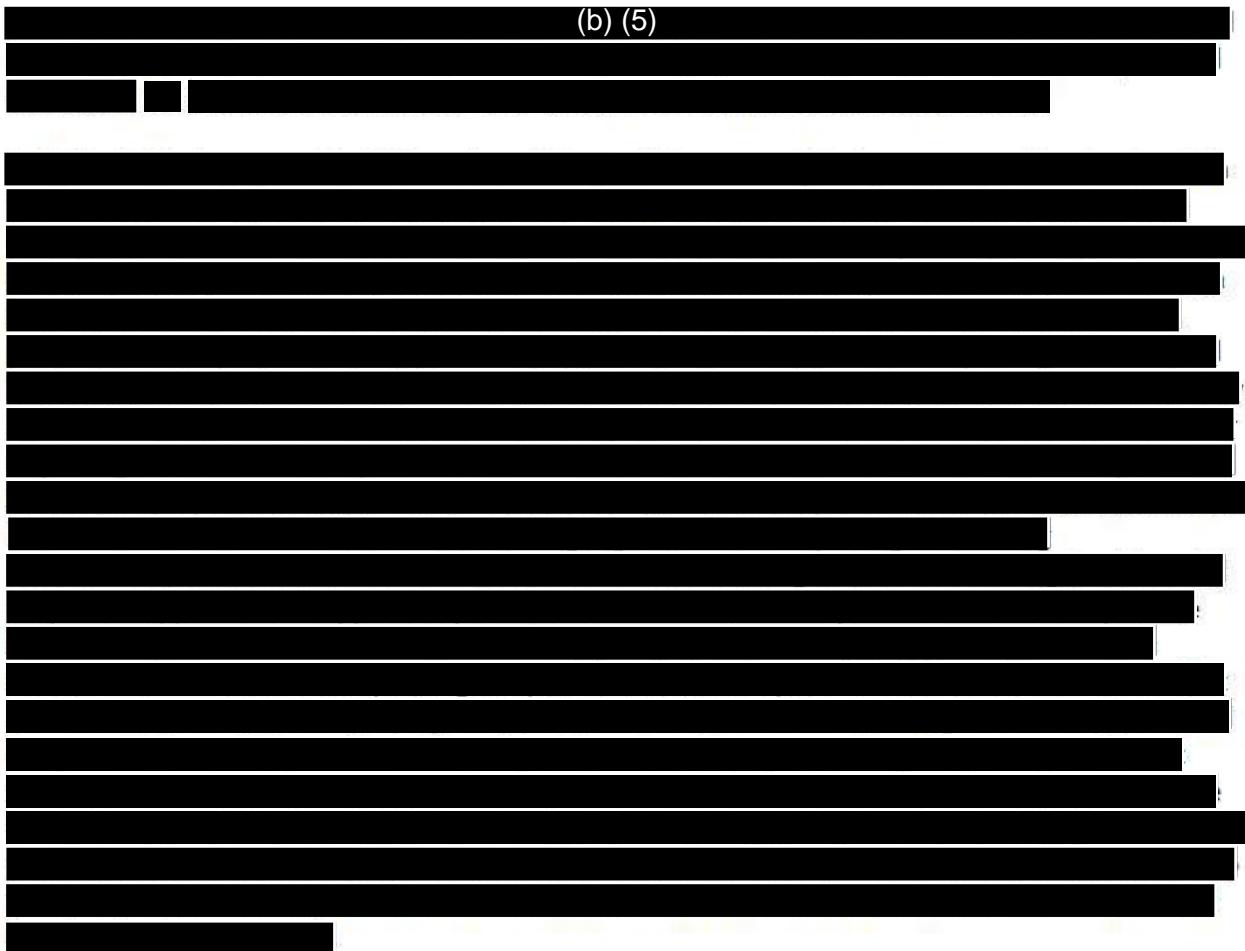
-----Original Message-----

From: Bradbury, Steve
To: Colborn, Paul P
CC: Elwood, John; Bradbury, Steve
Sent: Fri Jun 08 20:33:39 2007
Subject: Draft message to Jack

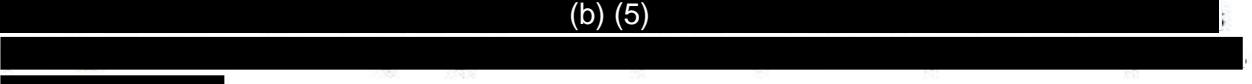
Paul: I'm planning to send the following message to Jack TONIGHT. Pls review and let me know if it's okay with you. (I decided it was best to mention your role, since I know how much he respects your institutional perspective, and since you were previously identified by Lionel Kennedy as the OLC contact for Jack on this review.) What do you think? Thx!

Here's the draft message:

(b) (5)



(b) (5)



Bradbury, Steve

From: Bradbury, Steve
Sent: Saturday, June 9, 2007 11:07 AM
To: Elwood, John; Eisenberg, John
Subject: Fw: Pre-publication review of book manuscript

FYI

-----Original Message-----

From: Bradbury, Steve
To: 'jgoldsmith@law.harvard.edu' <jgoldsmith@law.harvard.edu>
CC: Colborn, Paul P
Sent: Sat Jun 09 11:00:47 2007
Subject: Pre-publication review of book manuscript

Jack: I hope all is well for you and your family, and I know you're thriving at Harvard! Perhaps we'll be seeing each other soon. I miss you and would certainly love to get together whenever you find yourself in DC and it's convenient for you. You know where you can always find me!

Jack, I'm following up on the DOJ review of the partial manuscript of your prospective book, which you sent down to Lionel Kennedy. (I understand you'll be sending along the draft of chapter six soon.) As Lionel indicated to you earlier, the National Security Division (encompassing what used to be OIPR) has been conducting a review for classified information purposes and they'll be in touch with you on that, I'm sure early this week. In the meantime, as he also indicated he would do, pursuant to DOJ practice, Lionel passed a copy of the manuscript to OLC for privilege review, and Paul Colborn has taken the lead for us, as he normally does, in that effort. (This is the same review we did last year of John Yoo's most recent book.) Paul and I have identified a number of passages in the manuscript that do raise institutional concerns for OLC and for the Department, in terms of potential disclosures of attorney-client communications and other confidential Executive Branch deliberations or information, including a good number of passages involving communications between OLC and the Counsel's Office relating to OLC's role as legal adviser. I'd very much appreciate an opportunity to discuss our concerns with you. I am focused on the institutional interests of OLC and the Executive Branch for the future, and I do believe those institutional interests are strong and valid, and that they can be addressed in a manner that will not undermine the central project of your book. I'd like to fax you a letter on this and send along the relevant pages marking the passages of most concern. Could you please send me your best fax number at Harvard, so that I can send along the relevant materials on Monday? Alternatively, I would be happy to speak with you by phone and walk you through it, though that may be far less efficient. What would you prefer? Please call me if you'd like to discuss, at [REDACTED] (b) (6), or feel free to shoot me an email.

Thank you, Jack, for your attention to this. It's important. I want to be responsive to what I know is your tight turnaround time for getting the manuscript to the publisher. I hope to hear from you soon.
All the best! Steve

Elwood, John

From: Elwood, John
Sent: Saturday, June 9, 2007 1:16 PM
To: Bradbury, Steve; Eisenberg, John
Subject: Re: Pre-publication review of book manuscript

Not as bristley as I expected.

-----Original Message-----

From: Bradbury, Steve
To: Elwood, John; Eisenberg, John
Sent: Sat Jun 09 13:11:09 2007
Subject: Fw: Pre-publication review of book manuscript

FYI

-----Original Message-----

From: Bradbury, Steve
To: 'jgoldsmith@law.harvard.edu' <jgoldsmith@law.harvard.edu>
CC: Colborn, Paul P
Sent: Sat Jun 09 13:10:49 2007
Subject: Re: Pre-publication review of book manuscript

Sounds good. Thank you, Jack!

-----Original Message-----

From: Jack Goldsmith <jgoldsmith@law.harvard.edu>
To: Bradbury, Steve
CC: Colborn, Paul P
Sent: Sat Jun 09 12:49:11 2007
Subject: RE: Pre-publication review of book manuscript

Hi Steve and Paul. I hope y'all are well; I know you are very busy. I am travelling right now but will get back to you next week on this matter. Thanks so much. I too would like to get together, and I hope I can soon. Best, Jack

From: Bradbury, Steve [mailto:Steve.Bradbury@usdoj.gov]
Sent: Sat 6/9/2007 11:00 AM
To: jgoldsmith@law.harvard.edu

To: Jack Goldsmith
Cc: Colborn, Paul P

duplicate

Colborn, Paul P

From: Colborn, Paul P
Sent: Monday, June 11, 2007 9:40 AM
To: Bradbury, Steve; Elwood, John
Subject: RE: Goldsmith manuscript

I could do it now. Need to get ready around 10:30 to head over to (b) (5) to brief them on (b) (5).

From: Bradbury, Steve
Sent: Monday, June 11, 2007 9:40 AM
To: Elwood, John; Colborn, Paul P
Subject: Goldsmith manuscript

Shall we continue our review? I'm available now until 11:00. Thx.

Eisenberg, John

From: Eisenberg, John
Sent: Monday, June 11, 2007 12:37 PM
To: Bradbury, Steve
Subject: Re: Goldsmith manuscript

It might be cleaner but not clean. Happy to give it to you.

-----Original Message-----

From: Bradbury, Steve
To: Eisenberg, John
CC: Colborn, Paul P; Elwood, John
Sent: Mon Jun 11 12:35:24 2007
Subject: Re: Goldsmith manuscript

I was told by Paul that you have our clean copy (the one with post its).

-----Original Message-----

From: Eisenberg, John
To: Bradbury, Steve
Sent: Mon Jun 11 12:32:21 2007
Subject: Re: Goldsmith manuscript

I have no clean copy.

-----Original Message-----

From: Bradbury, Steve
To: Eisenberg, John
Sent: Mon Jun 11 12:13:30 2007
Subject: Goldsmith manuscript

John: I need your clean copy of the Goldsmith manuscript. Could you pls drop it on my chair? Thx!

Bradbury, Steve

From: Bradbury, Steve
Sent: Monday, June 11, 2007 12:53 PM
To: Eisenberg, John
Subject: Re: Goldsmith manuscript

Thx

-----Original Message-----

From: Eisenberg, John
To: Bradbury, Steve
Sent: Mon Jun 11 12:52:07 2007
Subject: Re: Goldsmith manuscript

It's on your chair. And it is either clean or close.

-----Original Message-----

From: Bradbury, Steve
To: Eisenberg, John
CC: Colborn, Paul P; Elwood, John
Sent: Mon Jun 11 12:35:24 2007
Subject: Re: Goldsmith manuscript

I was told by Paul that you have our clean copy (the one with post its).

-----Original Message-----

From: Eisenberg, John
To: Bradbury, Steve
Sent: Mon Jun 11 12:32:21 2007

duplicate

duplicate

Bradbury, Steve

From: Bradbury, Steve
Sent: Tuesday, June 12, 2007 11:19 AM
To: Colborn, Paul P; Elwood, John
Subject: RE: Goldsmith Manuscript

I'm going through the clean pages I copied and marking them by circling language and putting notes in the margins for Jack, but I have a couple of passages I'd like to discuss with you, so whenever you're available, I can talk. Thx

From: Colborn, Paul P
Sent: Tuesday, June 12, 2007 11:18 AM
To: Bradbury, Steve; Elwood, John
Subject: Goldsmith Manuscript

Shall we resume our review today? I'm available except for meetings at WHC from 1 to 3.